

1 ROB BONTA
Attorney General of California
2 NORMAN D. MORRISON
Supervising Deputy Attorney General
3 DIANA ESQUIVEL
Deputy Attorney General
4 State Bar No. 202954
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7320
Facsimile: (916) 322-8288
7 E-mail: Diana.Esquivel@doj.ca.gov
Attorneys for Defendants Blackwood, Kee, and
8 *Rubalcava*

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 EASTERN DIVISION
12

13 **JONATHAN WAYNE BOTTEN,**
14 **SR., et al.,**
15 Plaintiffs,
16 v.
17 **STATE OF CALIFORNIA, et al.,**
18 Defendants.
19
20
21

No. 5:23-cv-257 KK (SHKx)

**SUPPLEMENTAL
DECLARATION OF DIANA
ESQUIVEL IN SUPPORT OF
REPLY TO STATE
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Date: March 20, 2025
Time: 9:30 a.m.
Courtroom: 3 (3rd Floor)
Judge: The Honorable Kenly
Kiya Kato
Trial Date: July 28, 2025
Action Filed: February 17, 2023

22
23 I, Diana Esquivel, declare:

24 1. I am admitted to practice law in California and before this Court, and am a
25 Deputy Attorney General with the Office of the Attorney General for the State of
26 California, attorneys of record for Defendants California Highway Patrol (CHP)
27 Officers Michael Blackwood, Isaiah Kee, and Bernardo Rubalcava. (State
28 Defendants).

2. Exhibit Q are additional excerpts of the relevant portions of the transcript of Defendant Rubalcava's deposition testimony, taken on November 4, 2024, in this matter.

3. Exhibit U are additional excerpts of the relevant portions of the transcript of Dr. Timonthy Jong's deposition testimony, taken on February 12, 2024, in this matter.

4. Exhibit Z are excerpts of the relevant portions of the transcript of State Defendants' police practices expert, Greg Meyer, whose deposition testimony was taken on February 12, 2025, in this matter.

5. Exhibit AA are the relevant portions of Defendant Isaiah Kee's interview with the San Bernardo County Sheriff's Department, conducted on March 4, 2021.

6. Exhibit BB are the relevant portions of Defendant Bernardo Rubalcava's interview with the San Bernardino County Sherriff's Department, conducted on March 5, 2021.

7. Exhibit CC is a true copy of Plaintiff Jonathan W. Botten, Sr.'s medical records from Desert Valley Hospital, Victorville, California. Under Federal Rule of Civil Procedure 5.2, I redacted the Plaintiff's birthdate and medical number.

8. Exhibit DD are the relevant pages of Plaintiff Jonathan W. Botten, Sr.'s Responses to Interrogatories, Set One, dated April 3, 2023.

9. Exhibit EE are the relevant pages of Plaintiff Jonathan W. Botten, Sr.'s Responses to Special Interrogatories, Set One, date April 3, 2023.

10. Exhibit FF is a true copy of Plaintiffs' Second Supplemental Initial Disclosures, dated December 23, 2024.

11. Exhibit GG is a true copy of Plaintiffs' Expert Disclosures, dated January 30, 2025.

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1 12. Exhibit HH are excerpts of the relevant portions of the transcript of
2 Betzabeth Gonzalez's deposition testimony, taken on December 30, 2024, in this
3 matter.

4 I declare under penalty of perjury under the laws of the United States and the
5 State of California that the foregoing statements are true and correct.

6
7 Dated: March 6, 2025

/s/ *Diana Esquivel*
Diana Esquivel

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Exhibit Q

JONATHAN WAYNE BOTTEN SR., ET AL. vs STATE OF CALIFORNIA, ET AL.
Bernardo Rubalcava on 11/04/2024

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA

3
4 JONATHAN WAYNE BOTTEN, SR.; TANJA)
DUDEK-BOTTEN; ANNABELLE BOTTEN; and)
5 J.B., a minor by and through his)
guardian JONATHAN WAYNE BOTTEN, SR.,)

6 Plaintiffs,)

7 vs.)

) Case No.

) 5:23-CV-00257-JGB-SHK

8 STATE OF CALIFORNIA; COUNTY OF SAN)
9 BERNARDINO; ISAIAH KEE; MICHAEL)
BLACKWOOD; BERNARDO RUBALCAVA; ROBERT)
10 VACCARI; JAKE ADAMS; and DOES 1-10,)
inclusive,)

11 Defendants.)
12 _____)

13
14
15
16 REMOTE VIDEOCONFERENCE DEPOSITION OF

17 BERNARDO RUBALCAVA

18 MONDAY, NOVEMBER 4, 2024

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21
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23 Reported Stenographically By:

24 Jinna Grace Kim, CSR No. 14151

25 Job No.: 112646

JONATHAN WAYNE BOTTEN SR., ET AL. vs STATE OF CALIFORNIA, ET AL.
Bernardo Rubalcava on 11/04/2024

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1 located as you knew it at the time you were being
2 interviewed, or at the time of the shooting.
3 A. At the time I was being interviewed.
4 Q. At the time of the shooting, were you aware where
5 all the houses were located on the intersection of Peach
6 and -- I don't remember the name of the cross street?
7 A. No.
8 Q. At the time that you were approaching Mr. Puga, did
9 you have any intention to shoot him?
10 A. No.
11 Q. Did you think that that might be a possibility given
12 the fact that during the briefing you were informed that the
13 suspect was armed?
14 A. Yes.
15 Q. Did you see any lights coming from behind Mr. Puga's
16 person as you were approaching him?
17 A. No.
18 Q. Anything indicate to you that there were residents
19 or people somewhere in his background?
20 A. No.
21 Q. I think that might be all the questions I have.
22 Just give me a minute.
23 You testified earlier that you spoke to one of the
24 bystanders that was shot; is that correct?
25 A. Yes.

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1 Q. Where did that conversation take place?
2 A. At the intersection -- well, he sat at the rear of
3 the ambulance.
4 Q. Other than obtaining his names and the injuries
5 sustained by the other individuals, any other conversations
6 that you had with that gentleman?
7 A. No.
8 Q. Did he say anything to you other than providing you
9 with the information that you were asking?
10 A. No.
11 Q. I think that's all the question I have.
12 Thank you, Officer.
13 MR. GALIPO: I just have a few follow-up based on
14 those questions.
15 EXAMINATION
16 BY MR. GALIPO:
17 Q. So am I understanding that the helicopter with the
18 light was there earlier, but not there at the time of the
19 shooting?
20 A. Yes.
21 Q. And how long do you think the helicopter was
22 illuminating the area with its spotlight?
23 Half hour? 45 minutes?
24 What would be your estimate?
25 A. Half hour.

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1 Q. And is it your testimony that you didn't know during
2 that time that there were homes around the area?
3 A. Yes.
4 Q. You didn't see the helicopter's light illuminating
5 any homes?
6 A. No.
7 Q. You're saying you didn't know there were any homes
8 on the corners near where you were?
9 A. I didn't know.
10 Q. You indicated there were street lights and lighting
11 such that you could see Mr. Puga running away in the dark?
12 A. Yes.
13 Q. But you're saying you were not aware of any homes
14 there?
15 A. I wasn't aware of any homes in the northeast
16 corner.
17 Q. How about the other corners?
18 A. I was aware of the northwest corner.
19 Q. You could see the home there?
20 A. Yes.
21 Q. Are you saying if you knew there was a home in the
22 northeast corner, you wouldn't have shot so many shots?
23 A. No.
24 Q. So you would have shot the same number of shots
25 anyway?

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1 A. Probably not.
2 Q. With respect to justifying all your shots, based on
3 your training, there has to be an immediate threat of death
4 or serious bodily injury for each shot; correct?
5 A. Correct.
6 Q. And you simply can't shoot someone for running away,
7 true?
8 A. True.
9 Q. With respect to your recollection that Mr. Puga
10 fired two shots at you, do you know where these bullets went?
11 A. No.
12 Q. Do you know if they struck anything?
13 A. I believe -- no.
14 Q. Do you know if they were located anywhere down
15 range?
16 A. No.
17 Q. Do you know if you can see these muzzle flash you're
18 referring to in any of the videos from Mr. Puga?
19 A. No.
20 Q. Do you know if other deputies saw him actually
21 firing a shot, or it was only you?
22 A. I don't know. I didn't speak to the deputies.
23 Q. Are you saying that if he wouldn't have fired shots
24 at you, you wouldn't have fired at him?
25 A. No.

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Bernardo Rubalcava on 11/04/2024

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1 EXAMINATION

2 BY MS. ESQUIVEL:

3 Q. I just want to make sure because I don't think I

4 understood your testimony on some of the questions that

5 Mr. Galipo was asking you.

6 If you would have still shot Mr. Puga -- so let me

7 just ask.

8 Would you still have shot Mr. Puga had he not fired

9 his gun at you?

10 A. Yes.

11 Q. Why would you have still shot at him if he had not

12 fired his gun?

13 A. Because he reached for his handgun and pointed it at

14 us, and he's still a threat towards us.

15 Q. Is there anything that you're aware of either your

16 trainings or CHP policies or POST training that requires you

17 to wait until a suspect actually pulls a trigger after you

18 see him reach for a gun?

19 A. No.

20 Q. So you viewed Mr. Puga as a threat when he reached

21 for his weapon or the gun in his waistband; is that

22 correct?

23 A. Yes.

24 MR. GALIPO: Objection. Leading.

25 BY MS. ESQUIVEL:

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1 Q. Let me show you, and this video's just produced on

2 Friday, and it's Plaintiff 0241.

3 I'm not going to turn on the sound because I can't,

4 but I will -- it's pretty grainy.

5 (Video playing.)

6 BY MS. ESQUIVEL:

7 Q. I'm going to fast-forward -- well, from this angle,

8 I'm just going to stop it real briefly.

9 This was -- it looks like a bystander video, and

10 this appears to be from the southwest corner somewhere behind

11 you on the southwest corner; is that your understanding of

12 the view?

13 A. Yes.

14 Q. And based on what we see here, can you tell who this

15 person is that's -- do you see Mr. Puga with his hands up,

16 and there is a figure right to the right if you're looking at

17 your screen on the right of that?

18 Do you know who that is?

19 A. I believe that's Sergeant Kee.

20 Q. Can you see where you're standing?

21 A. No.

22 Q. I'm going to play it for a little bit, and then you

23 tell me if you can see where -- if at any point it captures

24 you.

25 (Video playing.)

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1 (Video paused.)

2 BY MS. ESQUIVEL:

3 Q. Let me fast-forward it a little bit to see if that

4 will --

5 (Video playing.)

6 MS. ESQUIVEL: I'm going to stop it at 2:53.

7 (Video paused.)

8 (Video playing.)

9 BY MS. ESQUIVEL:

10 Q. From here, I'm just going to play it a little bit.

11 Do you see yourself anywhere?

12 A. No.

13 Q. So I'll continue to fast-forward.

14 A. Yeah, I think so.

15 Q. I'm going to stop it at three minutes in.

16 A. Behind the driver's side door of the patrol car.

17 Q. So we're now at 4 minutes in, and I'm going to stop

18 it right here. It's going to get grainy again.

19 There is a figure over here.

20 Do you know who that is? I don't know if you can

21 see my mouse, but I'll just describe it.

22 Mr. Puga's in the middle here on the left-hand side

23 of this frame, and then there is a figure to the left if

24 you're looking at the screen, and then there is a figure to

25 the right of Mr. Puga.

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1 Who is on the left?

2 A. Sergeant Kee.

3 Q. And who is on the right?

4 A. I am.

5 Q. I'm going to fast-forward again.

6 (Video playing.)

7 (Video paused.)

8 BY MS. ESQUIVEL:

9 Q. We're now at 5 minutes and 37 seconds in.

10 And there is someone walking up.

11 Do you know who this person is right here?

12 A. That's me.

13 Q. And is this where you were -- you testified earlier

14 that you were walking to bring yourself, I guess, parallel

15 perpendicular in line with the front bumper of the white

16 SUV?

17 A. Yes.

18 Q. From this angle other than this light post, the

19 light from the post there, could you see any lights in the

20 background?

21 A. No.

22 Q. I'll continue playing the video.

23 (Video playing.)

24 (Video paused.)

25 BY MS. ESQUIVEL:

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Bernardo Rubalcava on 11/04/2024

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1 Q. Do you recall if at this point you still have your
2 weapon drawn?
3 A. Yes.
4 Q. It gets a little fuzzy there.
5 Having seen that, does that in way refresh your
6 recollection in terms of whether you saw any lights or
7 anything that would have indicated to you that there were
8 homes on the northeast corner of the intersection?
9 A. Yes.
10 Q. And what did it refresh your recollection?
11 A. It was dark, and I couldn't see that there's a
12 home.
13 Q. Okay. I have no further questions.
14 EXAMINATION
15 BY MR. GALIPO:
16 Q. Okay. Is it generally your experience that in
17 residential neighborhoods, there is homes at the
18 intersections or corners?
19 MS. ESQUIVEL: Objection. Vague; overbroad; lacks
20 foundation; calls for speculation.
21 BY MR. GALIPO:
22 Q. You may answer.
23 A. Not in that area.
24 Q. You saw a home on one corner; correct?
25 So you're saying you thought there was just a home

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1 on one corner, but not the other?
2 Or you didn't know either way?
3 A. Didn't know either way.
4 Q. And just so I'm clear, if he had not pointed a gun
5 at you, are you saying you still would have shot him?
6 A. Can you repeat the question?
7 Q. Sure. If he had not pointed a gun at you -- forget
8 about the shots, shooting the gun -- if he had not pointed a
9 gun at you, are you saying you wouldn't have shot him?
10 A. No.
11 MS. ESQUIVEL: Calls for speculation.
12 BY MR. GALIPO:
13 Q. So you would have shot him even if he didn't point a
14 gun at you; is that what you're saying?
15 A. If he wouldn't have pointed a gun, I would not have
16 shot him.
17 Q. And that's based on your training?
18 A. Yes.
19 Q. That's all I have.
20 MS. ESQUIVEL: Any other questions from anyone?
21 MR. GALIPO: I don't have any other, and I think
22 Shannon has no questions, I think.
23 MS. GUSTAFSON: Yeah, I don't have any questions.
24 Sorry. I was having trouble turning my mic on.
25 MS. ESQUIVEL: Madam Court Reporter, the witness

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1 will review, but you don't need to send him a transcript.
2 I'll order electronic only, and I'll provide him a copy of my
3 transcript.
4 MS. GUSTAFSON: I will like a copy of the
5 transcript.
6 MR. GALIPO: Great. Off the record.
7 (Deposition proceeding concluded at 1:19 p.m.)
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1 DECLARATION UNDER PENALTY OF PERJURY
2
3 Case Name: Jonathan Wayne Botten, et al. vs. State of
4 California, et al.
5 Date of Deposition: November 4, 2024
6 Job No.: 112646
7
8 I, _____, hereby certify
9 under penalty of perjury under the laws of the State of
10 California that the foregoing is true and correct.
11 Executed this _____ day of _____,
12 20____, at _____, California.
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BERNARDO RUBALCAVA

Exhibit U

JONATHAN WAYNE BOTTEN, SR., ET AL. vs STATE OF CALIFORNIA, ET AL.
Timothy Jong, M.D. on 01/02/2025

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA

3
4 JONATHAN WAYNE BOTTEN, SR.; TANJA)
DUDEK-BOTTEN; ANNABELLE BOTTEN; and)
5 J.B., a minor by and through his)
guardian JONATHAN WAYNE BOTTEN, SR.,)

6 Plaintiffs,)

7 vs.)

8 STATE OF CALIFORNIA; COUNTY OF SAN)
9 BERNARDINO; ISAIAH KEE; MICHAEL)
BLACKWOOD; BERNARDO RUBALCAVA; ROBERT)
10 VACCARI; JAKE ADAMS; and DOES 1-10,)
inclusive,)

11 Defendants.)
12 _____)

Case No.

5:22-CV-00949-KK-SHK

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15
16 REMOTE VIDEOCONFERENCE DEPOSITION OF

17 TIMOTHY JONG, M.D.

18 THURSDAY, JANUARY 2, 2025
19
20
21
22

23 Reported Stenographically By:

24 Jinna Grace Kim, CSR No. 14151

25 Job No.: 127502

JONATHAN WAYNE BOTTEN, SR., ET AL. vs STATE OF CALIFORNIA, ET AL.
Timothy Jong, M.D. on 01/02/2025

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1 Q. And one of the reasons that was fatal was because it
2 went through major organs and the internal bleeding?
3 A. Yes.
4 Q. I take it with the wound like that, death is not
5 instantaneous; it happens over minutes in part because of the
6 loss of blood?
7 A. Yes. There is also the possibility that air could
8 have gotten into the left chest cavity which I previously
9 mentioned which could also compress the lung.
10 Q. Which could also add to the cause of death?
11 A. Yes.
12 Q. And then you have something called Other Injuries on
13 Page 7 of your report towards the bottom.
14 Do you see that section?
15 A. Yes.
16 Q. Item one, were you describing something in your
17 opinion that was consistent with the decedent being struck by
18 a Taser dart?
19 A. Yes.
20 Q. And where on the body generally was that?
21 A. That was on the right upper back.
22 Q. And item two, what were you describing there?
23 A. I was describing a puncture on the mid right back.
24 Q. Do you know if that was consistent with a Taser or
25 some other less-lethal ammunition?

Page 23

1 A. It could be consistent with a Taser or a conductive
2 energy device as we call it.
3 Q. How about item three, what were you describing
4 there?
5 A. I was describing another puncture wound.
6 Q. Item four as well?
7 A. That's correct.
8 Q. And three and four were also to the back?
9 A. That's correct.
10 Q. Also consistent with Taser wounds?
11 A. Yes. It could be consistent with it.
12 Q. And then you documented numerous abrasions to the
13 body?
14 A. Yes.
15 Q. And then going to Page 10, is this where you're kind
16 of doing a synopsis or summary diagnosis of all the injuries?
17 A. Yes.
18 Q. And again, without going through all this, this is
19 much of the information we've already been discussing; is
20 that fair?
21 A. Yes.
22 Q. Do you recall if you were ever provided with any of
23 the video of the shooting itself?
24 A. I don't know if I saw video, but my recollection is
25 I did not.

Page 24

1 Q. Okay. And then in terms of the clothing, I noticed
2 you have some documentation or diagrams with respect to
3 clothing.
4 Did you have an opportunity to look at some of the
5 decedent's clothing?
6 A. Yes.
7 Q. And did you examine the clothing yourself, or did
8 someone else do that, if you recall?
9 A. I examined the clothing myself.
10 Q. And were there bullet defects in the clothing that
11 were consistent with at least some of the wounds you saw to
12 the body?
13 A. Yes.
14 Q. Okay. Thank you, Doctor.
15 That's all the question I have.
16 But I think other counsel may have some questions.
17 So let's find out.
18 A. Sounds good.
19 MS. ESQUIVEL: Yes. I do have a couple of
20 questions, Doctor.
21 EXAMINATION
22 BY MS. ESQUIVEL:
23 Q. I apologize because I am not as learned as Mr.
24 Galipo is. So I'm going to be asking some more basic
25 questions looking from more layman terms on some of these.

Page 25

1 As far as -- just going through the -- some wounds
2 that you have identified here starting on Page 3 of your
3 report, the one of the entry wound K to the mid left, other
4 than the lung -- well, first of all, did the bullet -- did
5 the -- did the gunshot -- did the bullet puncture more than
6 one lung?
7 A. No.
8 Q. Other than the lung, were there any other major
9 organs that were injured based on the trajectory or the
10 travel track of the bullet?
11 A. No.
12 Q. And here you describe the entry point as 17 and
13 one-eighth inches from the top of the head and nine inches
14 left of the posterior midline.
15 Can you tell me generally -- I know size makes a
16 difference, but just on your body can you tell me where that
17 would be, generally, what would be that general area?
18 A. Clarification: Are you referring to the measurement
19 17 and one-eighth inches from the top of the head?
20 Q. Right. Where that would be, or if looking on your
21 diagram, if you can tell me which one it is.
22 Because I'm looking at it, and I don't see a K.
23 I see a number. So I don't know if that's
24 different. So whichever one would be easier for you to tell
25 me, just point to me where on the back that entry point is

JONATHAN WAYNE BOTTEN, SR., ET AL. vs STATE OF CALIFORNIA, ET AL.
Timothy Jong, M.D. on 01/02/2025

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1 for the bullet -- the gunshot that you identified as K.
2 A. So based on my diagram, it's near -- it's on the
3 left back near the arm pit area.
4 Q. So if looking at the bottom, I don't think yours is,
5 but just for identification purposes for the rest of us, it's
6 Bates stamp ending in 846.
7 And this is your diagram at the top. It just has
8 San Bernardino Sheriff/Coroner, and at the bottom it says
9 male, anterior/posterior.
10 It -- maybe using that, can you tell me where that
11 entry point is for the gunshot identified as K?
12 A. Sure.
13 MR. GALIPO: Diana, it might help you.
14 Do you have Bates stamp 848?
15 Because he actually has it written in.
16 MS. ESQUIVEL: Okay. So let me just enlarge.
17 Give me a minute.
18 BY MS. ESQUIVEL:
19 Q. So I see now, we're looking at 848 which I don't
20 know what page that would be on your report, Doctor, but are
21 you looking at the same diagram we are now instead of
22 numbers --
23 MR. GALIPO: I'm holding it up just so the doctor
24 can see which diagram I'm referring to.
25 THE WITNESS: Yes.

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1 MR. GALIPO: Yes.
2 BY MS. ESQUIVEL:
3 Q. Okay. So I see one that says "GSWK."
4 Is that what you're referring to on Page 3 as the K
5 entry, gunshot wound K?
6 A. That's correct.
7 Q. And that's up by the arm -- behind the arm pit
8 area?
9 A. Yes.
10 Q. Okay. Based on your observation on the size or
11 trajectory, all the information that was available to you,
12 could you make any kind of determination as to the distance
13 that the gun was from the time from where the gun was shot to
14 that -- this bullet to where it struck Mr. Puga?
15 A. So the distance is indeterminate.
16 Q. And Mr. Galipo was asking you earlier whether the
17 trajectory that you noted of the bullet, the direction that
18 it traveled, would it be consistent with Mr. Puga bending
19 over, and you said it's possible.
20 Is that correct?
21 A. Yes, it's possible.
22 Q. Would -- could you, again, based on all the
23 information available to you that you saw, could you make any
24 kind of determination as to the angle that Mr. Puga was bent
25 over, meaning, whether he was bent at 90 degree at the waist,

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1 45 degree bend at the waist?
2 A. No. I can only answer in hypotheticals.
3 Q. Okay. Can you rule -- given that it was going
4 left-to-right in an upward trajectory, could you tell whether
5 Mr. Puga at the time that he was shot at entry K, whether his
6 back was directly to the shooter, or if it was at an angle,
7 meaning, the left side was to the shooter?
8 A. So just for clarification, you're asking if he was
9 completely faced straight on, or at an angle?
10 Q. Correct. Based on all the information you have, can
11 you rule out that Mr. Puga's back was directionally towards
12 the shooter?
13 A. The possibility does exist, that he could have been
14 straight back or at an angle.
15 Q. So it could have been both either his left -- the
16 left side facing the shooter, or his entire back facing the
17 shooter?
18 A. Yes.
19 Q. Is there any information that you would need to rule
20 out that Mr. Puga's back was directly facing the shooter?
21 A. If there was a clear video, then it might clarify
22 things.
23 Q. And I don't know if, again, not being familiar with
24 the entire forensic autopsy procedure, is there any way to
25 tell either by the level of coagulation or I don't know if

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1 there is something else in the tissue that would indicate
2 whether this was -- a K was a first gunshot or a last
3 gunshot?
4 A. So that depends, and to explain that, I would say
5 that if it all occurred and the person's bleeding, generally
6 speaking, if the person's heart is still beating, there will
7 be hemorrhage throughout the wound track.
8 In some cases, and it's not covering 100 percent,
9 in some cases if a person is shot after death, there will be
10 no hemorrhage in the wound track.
11 Q. And here it says you noted that there was hemorrhage
12 throughout the track.
13 You're able to conclude that he was alive when he
14 sustained gunshot K?
15 A. That's the most likely explanation, yes.
16 Q. And you indicated earlier that death would not have
17 been instantaneous because of the amount of blood loss
18 required and the hemorrhaging throughout the track; is that
19 correct?
20 A. Yes.
21 Q. Do you know if this type of gunshot wound would have
22 immediately immobilized Mr. Puga?
23 A. I would say that based on his prior physical
24 examination of him, it would most likely not have immediately
25 incapacitated him or caused death if that's what you're

JONATHAN WAYNE BOTTEN, SR., ET AL. vs STATE OF CALIFORNIA, ET AL.
Timothy Jong, M.D. on 01/02/2025

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1 facing the officer -- the shooter directly, could the path
2 become upward just based on the material and tissue that the
3 bullet struck upon entry?
4 MR. GALIPO: Objection. Incomplete hypothetical.
5 THE WITNESS: So would you be able to reword that,
6 please.
7 BY MS. ESQUIVEL:
8 Q. I'm sorry. Your sound muffled a little bit.
9 A. Oh, would you be able to reword that question,
10 please.
11 Q. Sure. Can you make any kind of determination as to
12 whether the officer or who the shooter or shooters that
13 struck -- who shot the bullets that struck from A to E on
14 your report -- strike that. That's a bad question.
15 Let me see if I could phrase it a little better
16 without going through each one.
17 Can you -- that Mr. Puga was not facing the shooter
18 or shooters that -- for gunshots A through E did not shoot
19 directly at him as he was facing the shooter or shooters, and
20 that the upward trajectory was caused by the tissue or other
21 material that the bullet might have struck as it entered the
22 body or the leg in this case?
23 MR. GALIPO: Objection. Vague and ambiguous as
24 phrased.
25 THE WITNESS: So to clarify, you're asking if it

Page 35

1 could have ricocheted within the body and it changed the
2 trajectory?
3 BY MS. ESQUIVEL:
4 Q. Correct. Causing the upward trajectory that you
5 observed during your autopsy.
6 MR. GALIPO: Objection. Incomplete hypothetical.
7 THE WITNESS: Based on my description of the wounds,
8 it seems that does not seem like a possibility.
9 BY MS. ESQUIVEL:
10 Q. Okay. Is it possible that Mr. Puga had raised his
11 leg when he sustained gunshots A through E that resulted in
12 the upward trajectory that you observed during your
13 autopsy?
14 A. Yes, that's a possibility.
15 Q. I'm sorry. I think that might be all the questions
16 I have. I'm just taking a quick look at my notes.
17 Okay. I have no further questions.
18 Thank you, Doctor.
19 A. Thank you.
20 MR. GALIPO: Amy, do you have any questions today?
21 MS. MARGOLIES: I do. I have a few just to make sure
22 that I'm also understanding what we've heard. I probably
23 understand forensic science the least of our group.
24 EXAMINATION
25 BY MS. MARGOLIES:

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1 Q. Let's start with -- it's going to be the fifth
2 gunshot wound listed on your report.
3 So the anterior left thigh, COSB E3E.
4 I think you already confirmed that this was a
5 non-fatal wound; is that right?
6 A. Yes.
7 Q. And anterior essentially means the front; would that
8 be accurate?
9 A. Yes.
10 Q. And so that this wound is to the front of Mr. Puga's
11 left thigh?
12 A. Yes.
13 Q. And it traveled front-to-back?
14 A. Yes.
15 Q. And projectile was recovered?
16 A. Yes.
17 Q. And Doctor, I'm going to ask you to assume for a
18 moment here since I know you weren't on the scene.
19 Assume that Hector Puga was found lying faced-down
20 on the ground.
21 Okay?
22 A. Sure.
23 Q. Would you agree that to a reasonable degree of
24 medical probability Puga was not in this face-down position
25 when he sustained the fifth gunshot wound that we discussed,

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1 and I believed you've identified as H, the front anterior
2 left thigh?
3 MR. GALIPO: I'll object.
4 It's an incomplete hypothetical.
5 THE WITNESS: Yes, that's likely.
6 BY MS. MARGOLIES:
7 Q. Was there something you wanted to add?
8 A. No.
9 Q. Okay. Would you further agree that it had to be in
10 some other position than lying faced-down on the ground to
11 sustain the anterior left thigh gunshot wound?
12 A. Sorry. Can you repeat the question.
13 Q. Sure. Would you further agree then that Hector Puga
14 had to be in some other position other than lying faced-down
15 on the ground when he sustained the gunshot wound to the
16 anterior left thigh?
17 MR. GALIPO: I'll object as an incomplete
18 hypothetical. Again, depends on the position and angle of
19 the shooter.
20 THE WITNESS: Yes, that's a possibility.
21 BY MS. MARGOLIES:
22 Q. To confirm, Hector Puga would have to be in some
23 position other than lying faced-down to sustain the anterior
24 left thigh gunshot wound?
25 A. Yes.

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1 indicated in the questioning, many of the shots to the back,
2 the buttocks, et cetera, have a back-to-front trajectory;
3 correct?
4 A. Yes.
5 Q. And there were a few with an upward trajectory with
6 the body in an anatomical position that counsel pointed out.
7 Do you recall that?
8 A. Yes.
9 Q. And I think a couple that you pointed out was wound
10 H was with the anterior left thigh, and then C which was the
11 right lower leg number one, D was the right lower leg number
12 two, and F was the right foot.
13 Do you generally recall that?
14 A. Yes.
15 Q. Would those upward trajectories to the thigh, lower
16 right leg, and toe at least be consistent in your mind with
17 Mr. Puga going down to the ground having the front of his
18 legs exposed to the shooters and hitting his lower legs and
19 traveling upward?
20 MS. ESQUIVEL: Objection. Incomplete and improper
21 hypothetical.
22 Go ahead.
23 THE WITNESS: So to clarify, you're saying that Mr.
24 Puga is face-down on the ground with one of his legs up?
25 BY MR. GALIPO:

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1 Q. No. Not faced-down, just down on the ground, even
2 on his back or side with his legs out in front of him.
3 A. That possibility does exist, yes.
4 Q. And I think you answered the question before, but
5 you wouldn't expect the bullet to hit someone in the ankle
6 and travel straight up the leg if someone was standing
7 upright, would you?
8 MS. ESQUIVEL: Same objection.
9 BY MR. GALIPO:
10 Q. So if the shooter and the decedent were on the same
11 ground plane both standing up, and the shooters were shooting
12 from chest level, you wouldn't expect the bullet to hit him
13 in the ankle and travel up his leg, would you?
14 A. Highly unlikely. That's very highly unlikely.
15 Q. And in terms of a ricochet, sometimes you describe
16 in your reports bullets hitting intermediary objects
17 potentially?
18 A. That's correct.
19 Q. And when a bullet hits a intermediary object, you
20 sometimes see an irregular entry wound; is that fair?
21 A. Yes, you can.
22 Q. And then you note that in your report when you see
23 that?
24 A. Yes.
25 Q. Did you indicate anywhere in your report that you

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1 thought these bullets hit intermediary objects or ricochet?
2 A. I did not.
3 Q. Okay. Thank you.
4 That's all that I have.
5 MS. ESQUIVEL: I'm sorry, Doctor.
6 I just have a few follow-ups.
7 EXAMINATION
8 BY MS. ESQUIVEL:
9 Q. Did you order the toxicology report on Mr. Puga?
10 A. Yes.
11 Q. Is that something that you normally do in the course
12 of your work as a forensic pathologist?
13 A. Yes.
14 Q. Do you rely on the results of the toxicology report
15 to make your final determination as to cause of death?
16 MR. GALIPO: Vague and ambiguous; incomplete
17 hypothetical.
18 You mean in this case?
19 MS. ESQUIVEL: I'm just asking him in general.
20 BY MS. ESQUIVEL:
21 Q. Do you rely on toxicology reports to make a
22 determination as to cause of death?
23 MR. GALIPO: Vague and ambiguous; incomplete
24 hypothetical.
25 THE WITNESS: Yes.

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1 BY MS. ESQUIVEL:
2 Q. Do you rely on toxicology reports to rule out a
3 cause of death?
4 A. I would have to -- it depends, but yes.
5 Q. Now, what was the purpose of ordering the toxicology
6 report in this case of Mr. Puga's blood?
7 A. So toxicology is something I generally order on
8 pretty much all my cases.
9 So it's part of my protocol and procedure.
10 Q. Would it be fair to say that it was also to rule out
11 the possibility that he died related to any kind of intake,
12 whether it would be alcohol or drugs?
13 A. In this case no because there is obvious cause of
14 death.
15 Q. And Mr. Galipo asked you about whether there is
16 intermediary -- well, something changes a trajectory of a
17 bullet causing an irregular wound.
18 Based on your observations during Mr. Puga's
19 autopsy, is there any way that you were able to tell whether
20 there was -- I'm sorry, strike that.
21 Based on your observations that you saw, can you
22 rule out that -- that the bullets that struck Mr. Puga did
23 not ricochet off the ground or other object?
24 A. I would probably have to look at each gunshot wound
25 picture, but to answer your question, based on what I

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1 remember of the wounds, I can't say whether something
2 ricocheted or not.
3 Q. Thank you, Doctor. No further questions.
4 MS. MARGOLIES: I just have a couple follow-ups.
5 EXAMINATION
6 BY MS. MARGOLIES:
7 Q. Doctor, earlier Plaintiff's counsel asked you if
8 certain bullet entries were consistent with Mr. Puga either
9 leaning forward or falling down.
10 Do you remember some of those questions?
11 A. Vaguely. Yes.
12 Q. And I believe your answers were generally something
13 to the effect of that's a possibility or this is a
14 possibility; is that right?
15 A. Yes.
16 Q. Earlier you also testified that there were very many
17 scenarios that could have occurred; is that right?
18 A. Yes.
19 Q. And do you say that because you don't know for
20 certain what scenario actually occurred as to each bullet
21 entry wound?
22 MR. GALIPO: Objection. Vague as phrased.
23 THE WITNESS: Yes.
24 BY MS. MARGOLIES:
25 Q. You are able to testify because you have written

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1 your report on the way or the direction, rather, that a
2 bullet traveled once in Mr. Puga's body.
3 Would that be accurate?
4 A. Yes.
5 Q. But you're not a ballistics expert; right?
6 A. That's correct.
7 Q. And you are not able to say as you sit here today
8 what position an officer or even Mr. Puga was in at the time
9 of each bullet entry; is that right?
10 MR. GALIPO: Objection. Vague and ambiguous as
11 phrased; depending on the hypothetical question posed.
12 THE WITNESS: Yes, that's correct.
13 BY MS. MARGOLIES:
14 Q. For example, you don't know whether or not Mr. Puga
15 was a lethal threat to officers at the time he sustained
16 these bullet entry wounds; right?
17 A. That's correct.
18 Q. You can't rule out if Mr. Puga was pointing a gun at
19 officers when he sustained these bullet entry wounds;
20 right?
21 A. That's correct.
22 Q. I don't have any another questions.
23 Thank you.
24 MR. GALIPO: It sounds like what you're saying,
25 Doctor, is based on the trajectory of the bullets within the

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1 body, if you're given hypothetical questions, specific
2 hypotheticals, you may be able to say whether or not the
3 trajectory is consistent or inconsistent with that
4 hypothetical; is that what you're generally saying?
5 THE WITNESS: Yes.
6 MR. GALIPO: Any other questions from Diana or Amy?
7 MS. ESQUIVEL: No further questions.
8 Thank you, Doctor, for your time.
9 MS. MARGOLIES: No further questions.
10 MR. GALIPO: Yes. Thank you, Doctor, for your time.
11 Let's go off the record.
12 (Deposition proceeding concluded at 3:34 p.m.)
13 * * *
14
15
16
17
18
19
20
21
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23
24
25

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1 DECLARATION UNDER PENALTY OF PERJURY
2
3 Case Name: Jonathan Wayne Botten, et al. vs. State of
4 California, et al.
5 Date of Deposition: January 2, 2025
6 Job No.: 127502
7
8 I, _____, hereby certify
9 under penalty of perjury under the laws of the State of
10 California that the foregoing is true and correct.
11 Executed this _____ day of _____,
12 20____, at _____, California.
13
14
15
16
17
18
19
20
21
22
23
24
25

TIMOTHY JONG

Exhibit Z

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
Greg Meyer on 02/12/2025

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3 --oOo--

4 JONATHAN WAYNE BOTTEN, SR.;
TANJA DUDEK-BOTTEN;
5 ANNABELLE BOTTEN; and J.B., a
minor by and through his guardian
6 JONATHAN WAYNE BOTTEN,

7 Plaintiffs,

8 vs. Case No. 5:23-cv-00257-JGB-SHK

9 STATE OF CALIFORNIA;
COUNTY OF SAN BERNARDINO;
10 ISAIAH KEE; MICHAEL BLACWOOD;
BERNARDO RUBALCAVA;
11 ROBERT VACCARI; JAKE ADAMS;
and DOES 1-10 inclusive,

12 Defendants.

13 _____/

14

15 STENOGRAPHIC REPORTER'S TRANSCRIPT OF

16 DEPOSITION OF GREG MEYER

17 WEDNESDAY, FEBRUARY 12, 2025

18

19

20

21 Reported Stenographically by:

22 KIMBERLY D'URSO, CSR 11372, RPR

23 Job No. 00135667

24

25

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
Greg Meyer on 02/12/2025

Page 4

1 --oOo--

2 BE IT REMEMBERED, that set on Wednesday, the
3 12th day of February, 2025, commencing at the hour of
4 10:04 a.m., thereof, GREG MEYER appeared remotely in
5 Glendale, California, before me, Kimberly E. D'Urso, an
6 RPR and Certified Shorthand Reporter of the State of
7 California, the following deposition was stenographically
8 reported by me:

9 (Whereby the Certified Shorthand Reporter
10 introduced herself on the record and
11 administered the oath to the deponent.)

12

13 EXAMINATION

14 BY MR. GALIPO:

15 Q. Can you please state your name?

16 A. My name is Greg Meyer.

17 Q. How long have you been serving as an expert
18 witness in the field of police practices?

19 A. A little over 35 years.

20 THE WITNESS: Give me a moment, please, to
21 adjust my volume. I think in the heat of battle I made
22 it much too loud on my end.

23 MR. GALIPO: Okay.

24 THE WITNESS: Okay. There we go.

25 MR. GALIPO: Are you able to hear me okay so

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
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1 it was very, very hard to see him while he's falling to
2 the ground, and you'd have to ask the officers what they
3 perceived after he was on the ground, when and why did
4 they stop shooting at that point -- or why did they
5 continue to shoot him and why did they decided to stop
6 shooting.

7 So these things become very complex, especially
8 when there's this type of scenario where they have --
9 they start out with an immediate defense of life
10 shooting, and within split seconds, it transfers to a
11 fleeing felon shooting.

12 But the answer, with respect to the
13 re-assessment is, you're kind of reassessing all the
14 time. We're, generally, looking at rapid fire here.
15 It's -- it's humanly impossible to re-assess bullet by
16 bullet, in -- in a rapid-fire situation, which I believe
17 Mr. Galipo's expert is flat wrong about.

18 But at some point during the shooting, the
19 officers, when they perceived that the threat is
20 diminished, that's when they're supposed to stop
21 shooting.

22 Sorry about that long sentence, again.

23 BY MS. ESQUIVEL:

24 Q. And another question that you were asked by
25 Mr. Galipo was whether the officers had evacuated the

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
Greg Meyer on 02/12/2025

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1 homes during the -- I want to call it the standoff,
2 while Mr. Puga was inside the vehicle. And then,
3 obviously, once he stepped out and then moved to the
4 front of the car, where several more minutes went by.
5 Is there anything in the CHP policy or POST that
6 requires officers in a standoff situation to evacuate
7 residents if the incident occurs in a residential area?

8 A. No. And that becomes a judgment call. If it
9 becomes a SWAT situation, then it's part and parcel of a
10 SWAT situation to secure the surrounding area, perhaps
11 perform some evacuations, if there's time, and if
12 there's resources to do so.

13 In this case, it's evident to me that during
14 this standoff situation, that minute by minute, the
15 officers are attempting to de-escalate this thing
16 through all of the verbal and even nonlethal weapons
17 usage -- which is part of de-escalation in a case like
18 this -- to end it, like, this minute. But it keeps
19 going on, and it keeps going on, and it keeps going on
20 in this case. That's point one.

21 Point two is, let's assume somebody decided at
22 that scene: Okay, we're going to have to get a whole
23 lot more officers and deputies here and -- and secure
24 the neighborhood and evacuate some of the houses, the
25 practical question becomes: Where do you get those

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
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1 people?

2 This is a graveyard shift. There's not that
3 many officers and deputies out there. Even if you
4 wanted to, as a practical matter, it's not going to
5 happen. You don't have the resources.

6 Q. And I know you were not asked to opine as to
7 the reasonableness of the deputies' use of force,
8 specifically, Sergeant Vaccari's use of the pepper
9 balls. But I have a question, just in terms of the
10 failure to intervene.

11 Was -- did you see any evidence that would have
12 indicated to either -- to any of the CHP officers that
13 Sergeant Vaccari's use of the pepper balls was excessive
14 or unreasonable, such that they should have intervened
15 in his use of the pepper ball?

16 A. No, not at all. In fact, Sergeant Kee,
17 himself, attempted -- I think it was -- he shot four
18 beanbag projectiles at the rear windshield, trying to
19 break it. That didn't work. And it was some time after
20 that -- I don't remember the timing -- that Sergeant
21 Vaccari used pepper balls, and some of the pepper balls
22 were glass breakers, apparently to do -- to accomplish
23 the -- the same thing.

24 In both cases, what they're doing is they're
25 encouraging Mr. Puga to, you know, submit -- I mean, get

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
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1 out of the car and submit to arrest. I don't find that
2 there's excessive force in play at all in that situation.

3 Q. And is it possible for you to give us a brief
4 summary of any disputes or disagreements you have with
5 Mr. Clark's opinions that he offered in his report? And
6 this is Roger Clark, the plaintiff's expert.

7 A. Yes, I can do that, if you give me a minute.
8 If I may look at my notes?

9 Q. Yes, please.

10 (Pause.)

11 THE WITNESS: In Mr. Clark's -- page 11, at the
12 bottom of his first paragraph, he -- he -- he says
13 there's -- in the video, it's video COSB 1459, he says he
14 doesn't see the handgun in the waistband. I do.

15 In page 13, paragraph 1 of his report, where
16 he's listing a number of witnesses talking about not
17 seeing Puga being armed and all that, he -- he more or
18 less, conveniently, I guess, leaves out the fact that
19 witness Annabelle Botten, said that she saw Puga with a
20 gun and that he shot at the officers, which is detailed
21 in my report, both my reports.

22 On page 14, in the first paragraph, apparently,
23 Mr. Clark says he does not see Puga running away with the
24 gun in his hand. But my viewing of the videos, he --
25 clearly shows him running with the gun in his hand, on

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1 multiple occasions. Also documented in my report.

2 His opinion 2, which is on page 15 of his
3 report, again, dealing with video COSB 1459 -- and I have
4 to interrupt and actually look at his report in order to
5 understand my own note, if I may have a moment.

6 (Pause.)

7 THE WITNESS: Let's see. Page -- I'm almost
8 there. This is almost a repeat of a note I had earlier.

9 But in his opinion number 2, which appears on
10 the 15th PDF page of the expert disclosure, and probably
11 eight lines down he refers to the cell phone video COSB
12 1459. And Mr. Clark writes that: "It shows Mr. Puga's
13 front side as he exits the car, and there appears to be
14 no weapon on or near Mr. Puga's waistband."

15 I disagree. I see the butt of a handgun on his
16 waistband, on the right side of his waistband there.

17 Also, on page 15, opinion number 3, the third
18 line -- well, the whole opinion, he says he violated
19 police practices and training when they shot at Puga
20 while he was running away. He said: "It's my opinion
21 that even if Mr. Puga had initially presented a threat
22 when the officers first opened fire" -- thank you for
23 that -- "Mr. Puga did not present an immediate threat of
24 death or serious bodily injury while he was running
25 away."

JONATHAN WAYNE BOTTEN, ET AL. vs STATE OF CALIFORNIA, ET AL.
Greg Meyer on 02/12/2025

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1 STATE OF CALIFORNIA)
2) ss:
3 COUNTY OF ALAMEDA)

4 I, KIMBERLY E. D'URSO, do hereby certify:

5 That the witness named in the foregoing
6 deposition was present remotely and duly sworn to testify
7 to the truth in the within-entitled action on the day and
8 date and at the time and place therein specified;

9 That the testimony of said witness was reported
10 by me in shorthand and was thereafter transcribed through
11 computer-aided transcription;

12 That the foregoing constitutes a full, true and
13 correct transcript of said deposition and of the
14 proceedings which took place;

15 Further, that if the foregoing pertains to the
16 original transcript of a deposition in a federal case,
17 before completion of the proceedings, review of the
18 transcript [x] was [] was not requested.

19 That I am a certified stenographic reporter and
20 a disinterested person to the said action;

21 IN WITNESS WHEREOF, I have hereunder subscribed
22 my hand this 25th day of February, 2025.

23 _____

24 KIMBERLY D'URSO, CSR NO. 11372, RPR

25

Exhibit AA

DR 192101044 H# 024-2021

Typed By: Dawn

Reviewed By / Date: Detective S. Abernathy / 03-04-21

1

2 KEE: Oh, I'd say about, I'm about, about 20 about 25 feet, yeah about 25.

3

4 ABERNATHY: So, you are directly between the patrol car and that light pole or
5 somewhere around that area?

6

7 KEE: Ex, exactly. Um, exactly between um it's probably like a 45-degree
8 angle um from the patrol car, but yes, it is, it is between that, that light
9 pole.

10

11 ABERNATHY: Okay.

12

13 KEE: Well, I was between the light pole and the car.

14

15 ABERNATHY: Did you ever see anybody else around the area besides the law
16 enforcement officers and the suspect and the passenger?

17

18 KEE: No, Sir.

19

20 ABERNATHY: Okay. Do you remember what was behind the suspect when you fired
21 during both volleys?

22

23 KEE: Um, when, when I was approaching him only thing I saw was just a
24 street, which is Catalpa, I just remember seeing the, the backdrop being
25 the street, and of course I could see you know residences on both sides
26 but pretty much it's like I had an alley way to shoot now when I um fired
27 the first time.

28

DR 192101044 H# 024-2021

Typed By: Dawn

Reviewed By / Date: Detective S. Abernathy / 03-04-21

1

2 ABERNATHY: Okay.

3

4 KEE: And um and then you said the second one, um so the second one, it
5 was the same thing. Um it was like just shooting up, shooting up in the
6 alley way cause there was nothing behind, where in front of him
7 because he is running north.

8

9 ABERNATHY: Okay. I know you said you, you remembered firing about 12 rounds is
10 that right?

11

12 KEE: A total, yes.

13

14 ABERNATHY: Okay. And how many of those were during the first volley and then how
15 many during the second?

16

17 KEE: So, it was probably like about five or six, 5 about five or six on the first
18 one and then probably about another five or six on the second.

19

20 ABERNATHY: Okay. Um and can you describe the cadence of both of the volleys, the
21 fire?

22

23 KEE: Yeah, the first one it, it was, it was rapid, I mean you know boom,
24 boom, boom, boom, boom. And then I, I ran back then I got in a prone
25 position but that one was more calm, because there was dust and then
26 as soon as it settled I could see the gun, I saw him, he is still running
27 and then I just took, then it was like boom, boom, boom. You know it

28

Exhibit BB

R 192101044

H# 2021-024

Typed By: Terry

Reviewed By / Date: Detective Edward Hernandez G4629 / March 5, 2021

1 RUBALCAVA: Correct.

2

3 WEAVER: ...shoot backwards while running forwards?

4

5 RUBALCAVA: Correct.

6

7 WEAVER: So, did you think the suspect was still firing at you?

8

9 RUBALCAVA: It's a possibility, yes.

10

11 WEAVER: Did that make you feel unsafe?

12

13 RUBALCAVA: Yes.

14

15 WEAVER: And were you in fear for your life then?

16

17 RUBALCAVA: Yes.

18

19 WEAVER: So, is that why you might have discharged your gun?

20

21 RUBALCAVA: Yes.

22

23 HERNANDEZ: Okay. Did you see any muzzle flashes at that point...

24

25 RUBALCAVA: No.

26

27

28

R 192101044

H# 2021-024

Typed By: Terry

Reviewed By / Date: Detective Edward Hernandez G4629 / March 5, 2021

1 HERNANDEZ: ...coming from the....? Okay. Did you have a clear view when you shot
2 your second volley?

3
4 RUBALCAVA: Yes.

5
6 HERNANDEZ: Okay. Could you describe your backdrop at the time of your uh, well
7 let's go back to the first volley, can you describe your backdrop, what
8 was behind the suspect?

9
10 RUBALCAVA: I didn't see anything because it was dark.

11
12 HERNANDEZ: Okay. Uh, no lighting in the distance, anything like that?

13
14 RUBALCAVA: No.

15
16 HERNANDEZ: Okay. Could you describe your backdrop during your second volley?

17
18 RUBALCAVA: Um, just the Peach, Peach um Peach and the dirt shoulder.

19
20 HERNANDEZ: Okay. And how many rounds did you fire in your second volley?

21
22 RUBALCAVA: Um, at least three, three to five.

23
24 HERNANDEZ: Three to five. Uh can you recall what shooting platform you had at that
25 point?

Exhibit CC

EMERGENCY DEPT REPORT Name: BOTTEN SR,JONATHAN Acct: V00001808857

Desert Valley Hospital
16850 Bear Valley Road, Victorville, Ca 92395
Ph:760-241-8000

Emergency Room
PDOC:0217-0010
Signed

Patient: BOTTEN SR,JONATHAN
DOB: [REDACTED] Loc: ER
Age/Sex: 40/M

Acct: [REDACTED] Unit: M000108329
Service Date: 02/17/21

SCRIBE

Scribe Authentication:

I Russell Carrillo , certified that the note below was transcribed by me on 2/17/21 at 05:01 HR for Provider: Dr. Leonard

Mult. trauma (HPI)

HPI Comments

40-year-old male came to ER via EMS due to gunshot wound. Per EMS, patient along with his wife and daughter was caught in a crossfire between police and suspected criminals. Family sustained gunshot wounds, with the wife and daughter being airlifted to Arrowhead Medical Center, and the husband sustained gunshot wounds on the right elbow and left wrist. No other injuries noted at this time care. Blood pressure on scene was 154/90 mmHg

Chief Complaint: Gun Shot Wound

Time Seen by MD: 05:04

Primary Care Provider: UNKNOWN

Reviewed notes: Nurses Notes, Medications, Allergies

Allergies:

Coded Allergies:

Charcoal (Unverified Allergy, Unknown, 5/26/15)
Penicillins (Unverified Allergy, Unknown, 5/26/15)

Information Source: Patient, Emergency Med Personnel

Mode of Arrival: EMS

Severity: Moderate

Timing: Minutes

Duration: Since onset

Prehospital treatment: Other (Bandages)

Location: (R) Elbow, (L) Wrist

Location of laceration: Extremities

Mechanism: Gunshot

Past Medical History

PAST MEDICAL HISTORY: Denies

Surgical History: Denies all surgeries

Family History

Family History: Reviewed, noncontributory to illness

Social History

Smoker: Non-Smoker

Alcohol: Denies ETOH Use

Drugs: Denies Drug Use

Lives In: Home

Constitutional: denies: chills, diaphoresis, fatigue, fever, malaise, sweats, weakness, others

EENTM: denies: blurred vision, double vision, ear bleeding, ear discharge, ear drainage, ear pain, ear ringing, eye

EMERGENCY DEPT REPORT Name: BOTTEN SR, JONATHAN Acct: [REDACTED]

pain, eye redness, hearing loss, mouth pain, mouth swelling, nasal discharge, nose bleeding, nose congestion, nose pain, photophobia, tearing, throat pain, throat swelling, voice changes, others

Respiratory: denies: cough, hemoptysis, orthopnea, SOB at rest, shortness of breath, SOB with exertion, stridor, wheezing, others

Cardiovascular: denies: chest pain, dizzy spells, diaphoresis, Dyspnea on exertion, edema, irregular heart beat, left arm pain, lightheadedness, palpitations, PND, syncope, others

Gastrointestinal: denies: abdomen distended, abdominal pain, blood streaked bowels, constipated, diarrhea, dysphagia, difficulty swallowing, hematemesis, melena, nausea, poor appetite, poor fluid intake, rectal bleeding, rectal pain, vomiting, others

Genitourinary: denies: burning, dysuria, flank pain, frequency, hematuria, incontinence, penile discharge, penile sore, pain, testicle pain, testicle swelling, urgency, others

Neurological: denies: dizziness, fainting, headache, left sided numbness, left sided weakness, numbness, paresthesia, pre-existing deficit, right sided numbness, right sided weakness, seizure, speech problems, tingling, tremors, weakness, others

Integumentary: reports: **wounds** (Gunshot wound right elbow, left wrist); denies: bruises, change in color, change in hair/nails, dryness, laceration, lesions, lumps, rash, others

Allergic/Immunocompromised: denies: Difficulty Healing, Frequent Infections, Hives, Itching, others

Hematologic/Lymphatic: denies: anemia, blood clots, easy bleeding, easy bruising, swollen glands, others

Endocrine: denies: excessive hunger, excessive sweating, excessive thirst, excessive urination, flushing, intolerance to cold, intolerance to heat, unexplained weight gain, unexplained weight loss, others

Psychiatric: denies: anxiety, bipolar disorder, depression, hopeless, panic disorder, schizophrenia, sleepless, suicidal, others

Physical Exam

General Appearance: Mild Distress, Normal

HEENT: Head (NCAT), Normal ENT Inspection, Pharynx Normal

Neck: Non-Tender, Normal, Normal Inspection

Respiratory: Chest Non-Tender, Lungs Clear, No Accessory Muscle Use, No Respiratory Distress, Normal Breath Sounds

Cardiovascular: No Edema, No JVD, No Murmur, No Gallop, Normal Peripheral Pulses, Regular Rate/Rhythm

Breast Exam: Deferred

Gastrointestinal: No Organomegaly, Non Tender, No Pulsatile Mass, Normal Bowel Sounds, Soft

Genitalia: Deferred

Pelvic: Deferred

Rectal: Deferred

Extremities: Normal capillary refill, Normal range of motion, Other (Gauze dressings removed from right elbow and left wrist/hand, # 2, 3.0cm long elliptical shallow ulcerations appeared just distal to the right elbow, hemostatic and without visible debris, #2, 1.0cm wounds appreciated, no active bleeding or drainage witnessed, lateral aspect of left hand with few, scattered abrasions with scant dried blood present, but no active bleeding or debris visualized, 2+ radial pulses bilaterally, normal sensation in the bilateral hands and 5/5 grip strength)

Musculoskeletal :

Appearance: Normal

Neurologic: Alert, CNs II-XII nml as Tested, No Motor Deficits, Normal Affect, Normal Mood, No Sensory Deficits

Cerebellar Function: Normal

Reflexes: Normal

Skin: Dry, Normal Color, Warm

Peripheral Pulses: 2+ Radial (R), 2+ Radial (L)

Lymphatic: No Adenopathy

Was a procedure done?

Was a procedure done?: No

Sedation?: No

Differential Diagnosis

Multiple Trauma: Fractures, Foreign Body, Other (Gunshot wound)

EMERGENCY DEPT REPORT Name: BOTTEN SR,JONATHAN Acct: [REDACTED]

X-Ray, Labs, Meds, VS

Vital Signs

Date Time	Temp	Pulse	Resp	B/P (MAP)	Pulse Ox	O2 Delivery	O2 Flow Rate	FiO2
2/17/21 05:24		74	20		96	Room Air		
2/17/21 05:24		74						
2/17/21 04:48	98.3	74	18		96			

Lab

Test	2/17/21 04:47	Range/Units
White Blood Count	14.9 H	4.4-10.8 10 ³ /uL
Red Blood Count	5.00	4.5-5.90 10 ⁶ /uL
Hemoglobin	15.9	13.5-17.5 g/dL
Hematocrit	45.8	41.0-53.0 %
Mean Corpuscular Volume	91.6	80.0-100.0 fL
Mean Corpuscular Hemoglobin	31.8	28.0-32.0 pg
Mean Corpuscular Hemoglobin Concent	34.7	32.0-36.0 g/dL
Red Cell Distribution Width	13.6	11.8-14.3 %
Platelet Count	228	140-450 10 ³ /uL
Neutrophils (%) (Auto)	58.5	37.0-80.0 %
Lymphocytes (%) (Auto)	30.6	10.0-50.0 %
Monocytes (%) (Auto)	6.7	0.0-12.0 %
Eosinophils (%) (Auto)	3.6	0.0-7.0 %
Basophils (%) (Auto)	0.6	0.0-2.0 %
Neutrophils # (Auto)	8.7 H	1.6-8.6 10 ³ /uL
Lymphocytes # (Auto)	4.5	0.4-5.4 10 ³ /uL
Monocytes # (Auto)	1.0	0-1.3 10 ³ /uL
Eosinophils # (Auto)	0.5	0-0.8 10 ³ /uL
Basophils # (Auto)	0.1	0-0.2 10 ³ /uL
Nucleated Red Blood Cells	0.1	%
Prothrombin Time	10.6	9.4-11.8 sec
Prothrombin Time INR	1.00	0.9-1.15
Activated Partial Thromboplast Time	25.6	23.0-31.2 sec
Sodium Level	139	136-145 mmol/L
Potassium Level	3.8	3.5-5.1 mmol/L
Chloride Level	105	98-107 mmol/L
Carbon Dioxide Level	26	21-32 mmol/L
Anion Gap	8	5-15
Blood Urea Nitrogen	16	7-18 mg/dL
Creatinine	1.25	0.700-1.30 mg/dL
Estimated GFR (African American)	82	mL/min
Estimated GFR (Non-African American)	68	mL/min
BUN/Creatinine Ratio	12.8	
Serum Glucose	159 H	74-106 mg/dL
Calcium Level	8.4 L	8.5-10.1 mg/dL

COSB008924

EMERGENCY DEPT REPORT Name: BOTTEN SR, JONATHAN Acct: [REDACTED]

Total Bilirubin	Pending	
Aspartate Amino Transferase (AST)	Pending	
Alanine Aminotransferase (ALT)	Pending	
Alkaline Phosphatase	Pending	
Total Protein	Pending	
Albumin	4.0	3.4-5.0 g/dL
Plasma/Serum Blood Alcohol	< 3.0	0-5 mg/dL

Current Medications

Medications (Trade)	Dose Ordered	Sig/Sch Route	Start Time Stop Time	Status	Last Admin
Cefazolin Sodium	50 ml @ 100 mls/hr	ONCE ONCE IV	2/17/21 04:45 2/17/21 05:14	DC	2/17/21 04:54
Diphtheria/Tetanus/Acell Pertussis (Boostrix T-Dap)	0.5 ml	ONCE ONCE IM	2/17/21 04:45 2/17/21 04:46	DC	2/17/21 04:54
Sodium Chloride	1,000 ml @ 1,000 mls/hr	Q1H ONCE IV	2/17/21 04:45 2/17/21 05:44	DC	2/17/21 04:53
Fentanyl Citrate	25 mcg	ONCE ONCE IV	2/17/21 05:00 2/17/21 05:01	DC	2/17/21 05:21

Vital signs reviewed from the time of arrival to the emergency department and found to be unremarkable. Patient physical exam was remarkable for 4 isolated wounds immediately distal to the right elbow as described in my physical exam. Additionally patient found to have abrasions present over the lateral aspect of the left hand. Labs obtained and pending review. X-ray of the right elbow as well as the left wrist and hand all found to be without fracture patient had dressings applied to the wound sites and was given a tetanus vaccine. Ancef 1 g IV also given as well as fentanyl 25 mg IV x1 labs found to be within normal limits.

Patient given prescriptions for Keflex to be taken 3 times daily for a week, ibuprofen 600 mg tablets to be taken every 6 hours as needed, and Norco 5-325 mg tablets with a total number of 12 available to him to take for breakthrough pain.

Wound care instructions provided to patient including keeping the areas clean and dry. Instructed him to follow-up with his primary care physician within the next 5 days for reevaluation. Return precautions provided.

Images Reviewed?: Images reviewed and evaluated by me

Time of 1ST Reevaluation: 05:45

Reevaluation 1ST: Unchanged

Patient Education/Counseling: Diagnosis, Treatment, Prognosis, Need For Follow Up

Family Education/Counseling: No Family Present

Departure 1

Departure

Time of Disposition: 05:58

Impression:

Primary Impression:

Gunshot wound of multiple sites of right upper extremity

Qualified Codes: S41.131A - Puncture wound without foreign body of right upper arm, initial encounter;

W34.00XA - Accidental discharge from unspecified firearms or gun, initial encounter

Additional Impression:

Gunshot wound of multiple sites of left upper extremity

Qualified Codes: S41.132A - Puncture wound without foreign body of left upper arm, initial encounter;

W34.00XA - Accidental discharge from unspecified firearms or gun, initial encounter

Disposition: 01 DC HOME SELF CARE/HOMELESS

Condition: Stable

Discharged With: Self

EMERGENCY DEPT REPORT Name: BOTTEN SR,JONATHAN Acct: [REDACTED]

Critical Care Note

Critical Care Time?: Yes (35 min-critical care time only)

Critical care comment:

Authorized and Performed by: Robert J Leonard, MD

Total critical care time: 45 minutes

Due to a high probability of clinically significant, life threatening deterioration, the patient required my highest level of preparedness to intervene emergently and I personally spent this critical care time directly and personally managing the patient. This critical care time included obtaining a history; examining the patient; pulse oximetry; ordering and review of studies; arranging urgent treatment with development of a management plan; evaluation of patient's response to treatment; frequent reassessment; and, discussions with other providers.

This critical care time was performed to assess and manage the high probability of imminent, life-threatening deterioration that could result in multi-organ failure. It was exclusive of separately billable procedures and treating other patients and teaching time.

Please see MDM section and the rest of the note for further information on patient assessment and treatment.

Stability

Stability form required: No

SCRIBE1

Provider Statement:

The above service was scribed on my behalf by the person named below and I attest to the accuracy of the note.

CARRILLO,RUSSELL
LEONARD,ROBERT J MD

Feb 17, 2021 05:06
Feb 17, 2021 06:00

TRANSCRIBED BY:CARRILLO,RUSSELL
TRANSCRIBED DATE/TIME:02/17/21 0506

ELECTRONICALLY SIGNED BY:LEONARD, ROBERT J MD 02/17/21 0601
ELECTRONICALLY CO-SIGNED BY:LEONARD,ROBERT J MD02/17/21 0601

COSB008926

16850 Bear Valley Rd, Victorville, California 92395
Yvonne S Noronha, M.D., Laboratory Medical Director
(760) 241-8000

PATIENT: BOTTEN SR, JONATHAN ACCT: [REDACTED] 7 LOC: ER U: M000108329
REG DR: LEONARD, ROBERT J MD AGE/SX: [REDACTED] ROOM: REG: 02/17/21
DOB: [REDACTED] BED: DIS:
STATUS: [REDACTED] TLOC:

*** HEMATOLOGY ***

Date	2/17/2021			Reference	Units
Time	0447				
WBC	14.9	H		(4.4-10.8)	10 ³ /uL
NEUT% (auto)	58.5			(37.0-80.0)	%
LYMPH % (auto)	30.6			(10.0-50.0)	%
MONO% (auto)	6.7			(0.0-12.0)	%
EOS% (auto)	3.6			(0.0-7.0)	%
BASO% (auto)	0.6			(0.0-2.0)	%
NRBC	0.1				%
Neut# (auto)	8.7	H		(1.6-8.6)	10 ³ /u
LYMPH# (AUTO)	4.5			(0.4-5.4)	10 ³ /u
MONO# (AUTO)	1.0			(0-1.3)	10 ³ /u
EOS# (AUTO)	0.5			(0-0.8)	10 ³ /u
BASO# (AUTO)	0.1			(0-0.2)	10 ³ /u
RBC	5.00			(4.5-5.90)	10 ⁶ /uL
HGB	15.9			(13.5-17.5)	g/dL
HCT	45.8			(41.0-53.0)	%
MCV	91.6			(80.0-100.0)	fL
MCH	31.8			(28.0-32.0)	pg
MCHC	34.7			(32.0-36.0)	g/dL
RDW	13.6			(11.8-14.3)	%
PLT	228			(140-450)	10 ³ /uL

*** COAGULATION ***

Date	2/17/2021			Reference	Units
Time	0447				
Protime	10.6			(9.4-11.8)	sec
INR	1.00(a)			(0.9-1.15)	
PTT	25.6			(23.0-31.2)	sec

NOTES: (a) CONDITIONS INR

Venous Thromboembolism	2-3
Acute Myocardial Infarction	2-3
Atrial Fibrillation	2-3
Rheumatic Heart Disease	2-3
BioProsthetic Heart Valve	2-3
Mechanical Heart Valve	2.5-3.5

** CONTINUED ON NEXT PAGE **

TWP FCVG< 2413:143
RUN TIME: 0205

RCIG 4

DESERT VALLEY HOSPITAL CLINICAL LABORATORY
16850 Bear Valley Rd, Victorville, California 92395
Yvonne S Noronha, M.D., Laboratory Medical Director
(760) 241-8000

Patient: BOTTEN SR, JONATHAN V00001808857 (Continued)

*** CHEMISTRY ***

Date Time	2/17/2021 0447		Reference	Units
NA	139		(136-145)	mmol/L
K	3.8		(3.5-5.1)	mmol/L
CL	105		(98-107)	mmol/L
CO2	26		(21-32)	mmol/L
ANION GAP	8		(5-15)	
GLU	159	H	(74-106)	mg/dL
BUN	16		(7-18)	mg/dL
SCREAT	1.25		(0.700-1.30)	mg/dL
ALK PHOS	90		(45-117)	U/L
AST/SGOT	30		(15-37)	U/L
ALT/SGPT	60		(16-61)	U/L
CA	8.4	L	(8.5-10.1)	mg/dL
TOTAL BILI	0.6(b)		(0.2-1.0)	mg/dL
TP	7.7		(6.4-8.2)	g/dL
ALB	4.0		(3.4-5.0)	g/dL
BUN/CREAT RATIO	12.8			
GFRAA	82			mL/min
GFRNAA	68(c)			mL/min

NOTES: (b) Use of this assay is not recommended for patients undergoing treatment with eltrombopag due to the potential for falsely elevated results.

(c) INTERPRETATIVE DATA:

NORMAL: Greater than or equal to 60 ml/min/1.73 meters sq
ABNORMAL: Less than 60 ml/min/1.73 meters sq

GFR units are mL/min/1.73 meters sq.

All GFR values are normalized to an average surface area of 1.73 meters squared.

DISCLAIMER:

MDRD equation has not been validated for use :

1. Individuals 17 yrs of age and younger.
2. Patients >70 yrs. of age.
3. Pregnant women.
4. Patients with extreme body size, muscle mass or nutritional status.
5. Patients with serious comorbid conditions.

Application of the equation to these patient groups may lead to errors in GFR estimations. The GFR is provided for use as clinically indicated.

TWP FCVG< 2413:143
RUN TIME: 0205

RCIG 5

DESERT VALLEY HOSPITAL CLINICAL LABORATORY
16850 Bear Valley Rd, Victorville, California 92395
Yvonne S Noronha, M.D., Laboratory Medical Director
(760) 241-8000

Patient: BOTTEN SR,JONATHAN V00001808857 (Continued)

*** CHEMISTRY (Continued) ***

Date	2/17/2021			Reference	Units
Time	0447				
ALCOHOL,BLOOD		< 3.0		(0-5)	mg/dL

COLLECTED: Feb 17, 2021 5:39am

BLOOD TYPE		O NEG
AB SCRIN INTERP.		NEGATIVE

** END OF REPORT **

COSB008929

DESERT VALLEY HOSPITAL
16850 Bear Valley Road, Victorville, CA - 92395
Ph: (760) 241 - 8000

DIAGNOSTIC IMAGING
Diagnostic Imaging Report : 0217-0016
Signed

PATIENT: BOTTEN SR, JONATHAN
M000108329
DOB: [REDACTED]
AGE / SEX: 40 / M
02/17/21 0446

ACCT: [REDACTED]
LOC: ER
ADM STATUS: REG ER

UNIT:
ROOM / BED: /
SERVICE DT:

ORDERING PHYSICIAN: LEONARD, ROBERT J MD
PROCEDURE(s): LWRI - L WRIST 3+ VIEW XRAY
REASON: GSW
ORDER NUMBER(s): 0217-0028, ACCESSION NUMBER(s): 1460378.004PAIDVH

PROCEDURE: Radiographs of the left wrist

CLINICAL INDICATION: Gunshot wound

TECHNIQUE: 3 views of the left rib are submitted

COMPARISON: None

FINDINGS:

No acute fracture or dislocation is seen. Joint spaces are maintained. Shrapnel is seen about the ulnar aspect of the hand and of the distal forearm on these images.

Soft tissues are unremarkable

IMPRESSION: No acute fracture; shrapnel as above.

RPTAT: HSLC

Dictated by: CAMPEAS, SUSAN L MD
Dictated Date/Time: 02/17/21 0521

Signed by: CAMPEAS, SUSAN L MD
Signed Date/Time: 02/17/21 0522

CC:

DESERT VALLEY HOSPITAL
16850 Bear Valley Road, Victorville, CA - 92395
Ph: (760) 241 - 8000

DIAGNOSTIC IMAGING
Diagnostic Imaging Report : 0217-0014
Signed

PATIENT: BOTTEN SR, JONATHAN
M000108329

ACCT: [REDACTED]

UNIT:

DOB: [REDACTED]
AGE / SEX: 40 / M
02/17/21 0446

LOC: ER
ADM STATUS: REG ER

ROOM / BED: /
SERVICE DT:

ORDERING PHYSICIAN: LEONARD, ROBERT J MD
PROCEDURE(s): LHAN - L HAND 3V XRAY
REASON: GSW
ORDER NUMBER(s): 0217-0027, ACCESSION NUMBER(s): 1460378.003PAIDVH

PROCEDURE: Radiographs of the left hand

CLINICAL INDICATION: Gunshot wound

TECHNIQUE: 3 views of the left hand are submitted

COMPARISON: None

FINDINGS:

No acute fracture or dislocation is seen. A ring overlies the mid fourth proximal phalange limiting assessment. Joint spaces are maintained. Shrapnel is seen in the soft tissues about the ulnar aspect of the hand.

Soft tissues are unremarkable

IMPRESSION: No acute fracture; shrapnel as above.

RPTAT: HSLC

DICTATED BY: CAMPEAS, SUSAN L MD
DICTATED DATE/TIME: 02/17/21 0520

SIGNED BY: CAMPEAS, SUSAN L MD
SIGNED DATE/TIME: 02/17/21 0520

CC:

DESERT VALLEY HOSPITAL
16850 Bear Valley Road, Victorville, CA - 92395
Ph: (760) 241 - 8000

DIAGNOSTIC IMAGING
Diagnostic Imaging Report : 0217-0011
Signed

PATIENT: BOTTEN SR, JONATHAN
M000108329

ACCT: [REDACTED]

UNIT:

DOB: [REDACTED]
AGE / SEX: 40 / M
02/17/21 0446

LOC: ER
ADM STATUS: REG ER

ROOM / BED: /
SERVICE DT:

ORDERING PHYSICIAN: LEONARD, ROBERT J MD
PROCEDURE(s): RELB3 - R ELBOW 3 VIEW XRAY
REASON: GSW
ORDER NUMBER(s): 0217-0026, ACCESSION NUMBER(s): 1460378.002PAIDVH

PROCEDURE: Radiographs of the right elbow

CLINICAL INDICATION: Gunshot wound

TECHNIQUE: 3 views of the right elbow are submitted

COMPARISON: None

FINDINGS:

No acute fracture or dislocation is seen. Joint spaces are maintained. Again shrapnel is seen in the surrounding soft tissues.

Soft tissues are unremarkable

IMPRESSION: No acute fracture; shrapnel of the soft tissues.

RPTAT: HSLC

Dictated by: CAMPEAS, SUSAN L MD
Dictated Date/Time: 02/17/21 0516

Signed by: CAMPEAS, SUSAN L MD
Signed Date/Time: 02/17/21 0516

CC:

COSB008932

DESERT VALLEY HOSPITAL
16850 Bear Valley Road, Victorville, CA - 92395
Ph: (760) 241 - 8000

DIAGNOSTIC IMAGING
Diagnostic Imaging Report : 0217-0010
Signed

PATIENT: BOTTEN SR, JONATHAN
M000108329

ACCT: [REDACTED]

UNIT:

DOB: [REDACTED]
AGE / SEX: 40 / M
02/17/21 0446

LOC: ER
ADM STATUS: REG ER

ROOM / BED: /
SERVICE DT:

ORDERING PHYSICIAN: LEONARD, ROBERT J MD
PROCEDURE(s): RFOR - R FOREARM XRAY
REASON: GSW
ORDER NUMBER(s): 0217-0025, ACCESSION NUMBER(s): 1460378.001PAIDVH

PROCEDURE: Radiographs of the right forearm

CLINICAL INDICATION: Gunshot wound

TECHNIQUE: 2 views of the right forearm are submitted

COMPARISON: None

FINDINGS:

No acute fracture or dislocation is seen. Joint spaces are maintained. Shrapnel is seen in the soft tissues.

Soft tissues are unremarkable

IMPRESSION: No fracture; shrapnel of the soft tissues.

RPTAT: HSLC

Dictated by: CAMPEAS, SUSAN L MD
Dictated Date/Time: 02/17/21 0514

Signed by: CAMPEAS, SUSAN L MD
Signed Date/Time: 02/17/21 0515

CC:

Exhibit DD

LAW OFFICES OF DALE K. GALIPO
Dale K. Galipo, Esq. (Bar No. 144074)
dalekgalipo@yahoo.com
Hang D. Le, Esq. (Bar No. 293450)
hlee@galipolaw.com
21800 Burbank Boulevard, Suite 310
Woodland Hills, California 91367
Telephone: (818) 347-3333
Facsimile: (818) 347-4118
Attorney for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

JONATHAN WAYNE BOTTEN, SR., et al.,)	Case No.: CIVSB2131572
)	
Plaintiffs,)	
)	RESPONSES BY PLAINTIFF JONATHAN
vs.)	WAYNE BOTTEN SR. TO
)	INTERROGATORIES (SET ONE)
STATE OF CALIFORNIA, et al.,)	
)	
Defendants.)	
_____)	

PROPOUNDING PARTY: Defendant, COUNTY OF SAN BERNARDINO

RESPONDING PARTY: Plaintiff, JONATHAN WAYNE BOTTEN SR.

SET NUMBER: One

TO PROPOUNDING PARTY AND THE ATTORNEY(S) OF RECORD:

Plaintiff has not fully completed an investigation of the facts relating to this case, has not fully completed discovery in this action and has not completed trial preparation. All of the answers contained herein are based only upon such information and documents which are presently available to, and specifically known to this responding party and disclose only those contentions which presently occur to such responding party.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and

INTERROGATORY 11:

State each and every offense for which YOU have been arrested, including the date(s) of arrest, arresting agency, case number, and disposition of charges.

RESPONSES TO INTERROGATORY 11:

Plaintiff objects to this Interrogatory on the basis that it is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection, Plaintiff responds as follows:

1. Domestic Violence (July or August of 2006) – No charges. After diligent search and reasonable inquiry, Plaintiff is unable to locate information regarding arresting agency and case number at this time.
2. Domestic Violence (September 2006) – Plaintiff pled no contest and received summary probation for 1 year. After diligent search and reasonable inquiry, Plaintiff is unable to locate information regarding arresting agency and case number at this time.

As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

INTERROGATORY 12:

If YOU were ever convicted of a crime, then for each conviction state the city and state where YOU were convicted, the date of conviction, offense, and the court and case number.

RESPONSES TO INTERROGATORY 12:

Plaintiff was convicted of “Inflicting Corporal Punishment on a Spouse without Injury” in 2006 in San Bernardino Superior Court. After diligent search and reasonable inquiry, Plaintiff is unable to locate information the case number and exact date of conviction at this time.

As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

INTERROGATORY 13:

IDENTIFY each and every witness to any of the events surrounding this lawsuit, including witnesses to liability and damages/injuries, IDENTIFYING each such witness by their name, address, and telephone number and providing a brief summary of their knowledge relevant to this

lawsuit.

RESPONSES TO INTERROGATORY 13:

1. Plaintiff – facts and circumstances surrounding the incident; damages.
2. Jonathan Wayne Botten, Jr. – c/o Plaintiffs’ counsel; facts and circumstances surrounding the incident; damages.
3. Tanja Dudek-Botten – c/o Plaintiffs’ counsel; facts and circumstances surrounding the incident; damages.
4. Annabelle Botten – c/o Plaintiffs’ counsel; facts and circumstances surrounding the incident; damages.
5. Neighbor Sal (last name unknown) – 18010 Catalpa St., Hesperia, CA; (951) 403-4532; facts and circumstances surrounding the incident.
6. Neighbors (names and contact information currently unknown)
7. Isaiah Kee – c/o State defense counsel; facts and circumstances surrounding the incident.
8. Michael Blackwood – c/o State defense counsel; facts and circumstances surrounding the incident.
9. Bernardo Rubalcava – c/o State defense counsel; facts and circumstances surrounding the incident.
10. Robert Vaccari – c/o County defense counsel; facts and circumstances surrounding the incident.
11. Jake Adams – c/o County defense counsel; facts and circumstances surrounding the incident.

As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

INTERROGATORY 14:

If YOU are seeking damages for lost income or lost earning capacity, state the amount of YOUR claim and explain how that amount was calculated.

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1 physical therapy needed to help rehabilitate his arm. As discovery is ongoing, Plaintiff reserves the
2 right to amend and/or supplement this response.

3
4 **INTERROGATORY 18:**

5 If YOU are seeking property damages, state the amount of YOUR claim and explain how
6 YOU calculated this figure.

7 **RESPONSES TO INTERROGATORY 18:**

8 Plaintiff is not seeking property damages.
9 As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

10 **INTERROGATORY 19:**

11 If YOU seeking any other damages not already described in interrogatories 14-18,
12 IDENTIFY the type of damages, state the amount of damages, and explain how the figure was
13 calculated.


14 **RESPONSES TO INTERROGATORY 19:**

15 Plaintiff seeks compensatory damages of approximately \$700. This is calculated based on the
16 amount of gas Plaintiff had to expend driving from Hesperia to Loma Linda to be with his son during
17 his son's stay at the hospital and the hotel bill incurred while Plaintiff stay near his son's hospital. As
18 discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

19
20
21 DATED: April 3, 2023

THE LAW OFFICES OF DALE K. GALIPO

22
23 BY:



Dale K. Galipo
Hang D. Le
Attorneys for Plaintiffs

Jonathan Wayne Botten, Sr., et al. v. State of California, et al.

San Bernardino Superior Court

Case No. CIVSB2131572

I, Jonathan Wayne Botten, Sr., declare as follows:

I am a Plaintiff in the above-entitled matter. I have read the responses to the propounded discovery as identified below. I know their content and based on my knowledge and/or on my information and belief, I believe them to be true.

PLAINTIFF JONATHAN WAYNE BOTTEN, SR.'S RESPONSES TO
DEFENDANT COUNTY OF SAN BERNARDINO'S INTERROGATORIES,
SET ONE

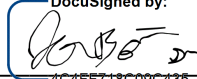
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct, and that this declaration is executed on

4/1/2023

Hesperia

_____, at _____, California.

DocuSigned by:



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Jonathan Wayne Botten, Sr.

Exhibit EE

LAW OFFICES OF DALE K. GALIPO
Dale K. Galipo, Esq. (Bar No. 144074)
dalekgalipo@yahoo.com
Hang D. Le, Esq. (Bar No. 293450)
hlee@galipolaw.com
21800 Burbank Boulevard, Suite 310
Woodland Hills, California 91367
Telephone: (818) 347-3333
Facsimile: (818) 347-4118
Attorney for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

JONATHAN WAYNE BOTTEN, SR., et al.,)	Case No.: CIVSB2131572
)	
Plaintiffs,)	
)	RESPONSES BY PLAINTIFF JONATHAN
vs.)	WAYNE BOTTEN, SR. TO SPECIAL
)	INTERROGATORIES (SET ONE)
STATE OF CALIFORNIA, et al.,)	
)	
Defendants.)	
_____)	

PROPOUNDING PARTY: Defendant, COUNTY OF SAN BERNARDINO

RESPONDING PARTY: Plaintiff, JONATHAN WAYNE BOTTEN, SR.

SET NUMBER: One

TO PROPOUNDING PARTY AND THE ATTORNEY(S) OF RECORD:

Plaintiff has not fully completed an investigation of the facts relating to this case, has not fully completed discovery in this action and has not completed trial preparation. All of the answers contained herein are based only upon such information and documents which are presently available to, and specifically known to this responding party and disclose only those contentions which presently occur to such responding party.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and

SPECIAL INTERROGATORY 5:

If you exchanged any words with any peace officer during the INCIDENT, state the exact words spoken by all parties to the conversation.

RESPONSES TO SPECIAL INTERROGATORY 5:

Plaintiff exchanged the following words with SBSB deputies:

“We need help. We need help. Get over here. Jump my fence, you’re good. Jump my fence.”

“Hey do you mind if I smoke this cigarette.”

Plaintiff exchanged the following words with a CHP officer:

“I didn’t see him have a gun.”

As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

SPECIAL INTERROGATORY 6:

IDENTIFY every healthcare provider who treated YOU following the INCIDENT by providing their full name, address and telephone number.

RESPONSES TO SPECIAL INTERROGATORY 6:

After diligent search and reasonable inquiry, Plaintiff is unable to locate the names of the healthcare providers who treated Plaintiff following the incident at this time. As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

SPECIAL INTERROGATORY 7:

If you obtained medical care as a result of the INCIDENT, IDENTIFY each healthcare provider YOU consulted by providing their full name, address and telephone number. (Whenever the term "IDENTIFY" is used in an interrogatory, it means to provide the last known name, address and telephone number of the person or entity to which it pertains.)

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RESPONSES TO SPECIAL INTERROGATORY 7:

After diligent search and reasonable inquiry, Plaintiff is unable to locate the names of the healthcare providers who treated Plaintiff following the incident at this time. As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

SPECIAL INTERROGATORY 8:

State all facts that support YOUR contention that YOU suffered a battery as a result of the INCIDENT.

RESPONSES TO SPECIAL INTERROGATORY 8:

The officers shot the subject they were attempting to detain numerous times even though the subject did not brandish a weapon and did not pose an immediate threat of death or serious bodily injury. When the officers shot at the subject, they also shot Plaintiff. As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

SPECIAL INTERROGATORY 9:

If YOU contend that any peace officers used excessive or unreasonable force related to the INCIDENT, state all facts that support YOUR contention.

RESPONSES TO SPECIAL INTERROGATORY 9:

The officers shot the subject they were attempting to detain numerous times even though the subject did not brandish a weapon and did not pose an immediate threat of death or serious bodily injury. When the officers shot at the subject, they also shot Plaintiff. As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this response.

SPECIAL INTERROGATORY 10:

If YOU contend that any peace officers' conduct related to the INCIDENT was negligent, state all facts that support YOUR contention.

//

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1 under state law.


2 **RESPONSES TO SPECIAL INTERROGATORY 13:**

3 The officers shot the subject they were attempting to detain numerous times even though the
4 subject did not brandish a weapon and did not pose an immediate threat of death or serious bodily
5 injury. The officers did not issue a warning that they were going to use deadly force prior to shooting.
6 Moreover, the officers failed to secure the scene and shot indiscriminately, striking his wife, son, and
7 Plaintiff. As discovery is ongoing, Plaintiff reserves the right to amend and/or supplement this
8 response.

9
10
11 DATED: April 3, 2023

THE LAW OFFICES OF DALE K. GALIPO

12
13 BY:



Dale K. Galipo
Hang D. Le
Attorneys for Plaintiffs

Jonathan Wayne Botten, Sr., et al. v. State of California, et al.

San Bernardino Superior Court

Case No. CIVSB2131572

I, Jonathan Wayne Botten, Sr., declare as follows:

I am a Plaintiff in the above-entitled matter. I have read the responses to the propounded discovery as identified below. I know their content and based on my knowledge and/or on my information and belief, I believe them to be true.

PLAINTIFF JONATHAN WAYNE BOTTEN, SR.'S RESPONSES TO
DEFENDANT COUNTY OF SAN BERNARDINO'S SPECIAL
INTERROGATORIES, SET ONE

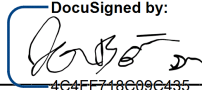
I declare under penalty of perjury under the laws of the State of California
the foregoing is true and correct, and that this declaration is executed on

4/1/2023

Hesperia

_____, at _____, California.

DocuSigned by:



4C4FF718C09C435...

Jonathan Wayne Botten, Sr.

Exhibit FF

LAW OFFICES OF DALE K. GALIPO

Dale K. Galipo, Esq. (Bar No. 144074)

dalekgalipo@yahoo.com

Hang D. Le, Esq. (Bar No. 293450)

hlee@galipolaw.com

21800 Burbank Boulevard, Suite 310

Woodland Hills, California, 91367

Telephone: (818) 347-3333

Facsimile: (818) 347-4118

Attorneys for Plaintiffs

JONATHAN WAYNE BOTTEN, SR.,

TANJA DUDEK-BOTTEN, ANNABELLE BOTTEN,

AND J.B.

**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

JONATHAN WAYNE BOTTEN, SR.;
TANJA DUDEK-BOTTEN;
ANNABELLE BOTTEN; and J.B., a
minor, by and through his guardian
JONATHAN WAYNE BOTTEN, SR.,

Plaintiffs,

vs.

STATE OF CALIFORNIA; COUNTY
OF SAN BERNARDINO; ISAIAH
KEE; MICHAEL BLACKWOOD;
BERNARDO RUBALCAVA; ROBERT
VACCARI; JAKE ADAMS; and DOES
1-10, inclusive,

Defendants.

Case No. 5:23-cv-00257-KK-SHK

Honorable Kenly Kiya Kato

**PLAINTIFFS' SECOND
SUPPLEMENTAL RULE 26(f)
DISCLOSURES**

Pursuant to Federal Rule of Civil Procedure 26, Plaintiffs JONATHAN WAYNE BOTTEN, SR.; TANJA DUDEK-BOTTEN; ANNABELLE BOTTEN; and J.B., a minor, by and through his guardian JONATHAN WAYNE BOTTEN, SR., hereby makes the following supplemental disclosures of witnesses, documents, and damages known at this time.

I. WITNESSES

Based on the information currently known to Plaintiffs, the following persons have knowledge of facts that Plaintiffs may use to support their material allegations. The subjects of information specified are those of which Plaintiffs are currently aware of or Plaintiffs reasonably believe are within the knowledge of the identified individuals.

<u>Name</u>	<u>Contact Information</u>	<u>Subject Matter(s)</u>
1. Jonathan Wayne Botten	c/o Plaintiffs' counsel	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit; damages.
2. Tanja Dudek-Botten	c/o Plaintiffs' counsel	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit; damages.
3. Annabelle Botten	c/o Plaintiffs' counsel	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit; damages.

1	4. J.B. through his guardian Jonathan Wayne Botten	c/o Plaintiffs' counsel	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit; damages.
2			
3			
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5			
6	5. Isaiah Kee	c/o Defense counsel for State	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit.
7			
8			
9			
10	6. Michael Blackwood	c/o Defense counsel for State	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit.
11			
12			
13			
14	7. Bernardo Rubalcava	c/o Defense counsel for State	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit.
15			
16			
17			
18	8. Robert Vaccari	c/o Defense counsel for County	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit.
19			
20			
21			
22	9. Jake Adams	c/o Defense counsel for County	The facts and circumstances relating to the officer-involved shooting of Decedent, which occurred on February 17, 2021 and is the subject of this lawsuit.
23			
24			
25			
26	10. Joseph Edward Fergusson, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff Dudek-Botten's injuries, medical treatment and care that was provided to Plaintiff Dudek-Botten for her
27			
28			

		injuries, any prognosis regarding Plaintiff Dudek-Botten's injuries; damages.
11.Jon Boyd Roper, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff Dudek-Botten's injuries, medical treatment and care that was provided to Plaintiff Dudek-Botten for her injuries, any prognosis regarding Plaintiff Dudek-Botten's injuries; damages.
12.Heather Marie Tassone, D.O.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff Dudek-Botten's injuries, medical treatment and care that was provided to Plaintiff Dudek-Botten for her injuries, any prognosis regarding Plaintiff Dudek-Botten's injuries; damages.
13.Shannon Kiang, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff Dudek-Botten's injuries, medical treatment and care that was provided to Plaintiff Dudek-Botten for her injuries, any prognosis regarding Plaintiff Dudek-Botten's injuries; damages.
14.Bailey Ann Wentworth, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff Dudek-Botten's injuries, medical treatment and care that was provided to Plaintiff Dudek-Botten for her injuries, any prognosis regarding Plaintiff Dudek-Botten's injuries; damages.
15.Nicole Depolo, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff Dudek-Botten's injuries, medical treatment and care that was provided to Plaintiff Dudek-Botten for her injuries, any prognosis regarding Plaintiff Dudek-Botten's injuries; damages.
16.Daniel Paul Srikureja, M.D.	Loma Linda University Health, 11234 Anderson	Plaintiff J.B.'s injuries, medical treatment and care that was provided to Plaintiff

	St., Loma Linda, CA 92345; (909) 558-4000.	J.B. for his injuries, any prognosis regarding Plaintiff J.B.'s injuries; damages.
17. Andrew James Davis, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff J.B.'s injuries, medical treatment and care that was provided to Plaintiff J.B. for his injuries, any prognosis regarding Plaintiff J.B.'s injuries; damages.
18. Amanda MacQuoid, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff J.B.'s injuries, medical treatment and care that was provided to Plaintiff J.B. for his injuries, any prognosis regarding Plaintiff J.B.'s injuries; damages.
19. Gregory James Jutzy, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff J.B.'s injuries, medical treatment and care that was provided to Plaintiff J.B. for his injuries, any prognosis regarding Plaintiff J.B.'s injuries; damages.
20. Katherine Sigrid Burruss, M.D.	Loma Linda University Health, 11234 Anderson St., Loma Linda, CA 92345; (909) 558-4000.	Plaintiff J.B.'s injuries, medical treatment and care that was provided to Plaintiff J.B. for his injuries, any prognosis regarding Plaintiff J.B.'s injuries; damages.
21. Unidentified EMT/Paramedics who responded to the scene	Information unknown at this time	Plaintiffs Botten, Sr, Dudek- Botten, and J.B.'s injuries and medical treatment at the scene and en route to the hospital, medical expenses, and any information given to them regarding the circumstances of the detention and use of force.
22. Unidentified law enforcement officers who responded to the scene	Information unknown at this time	The facts and circumstances relating to the officer- involved shooting, which occurred on February 17,

1		2021 and is the subject of this lawsuit.
2		
3	23. Other persons whose identities appear in the reports disclosed (see below) are incorporated by reference as though specifically identified	
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9 Plaintiffs' investigation of this matter is not yet complete and Plaintiffs have not
10 concluded discovery in this matter. Plaintiffs reserve the right to identify additional
11 individuals with such knowledge as such persons become known to Plaintiffs, or the
12 information they possess becomes relevant to the claims or defenses or any party,
13 pursuant to Rule 26(e).

14 **II. DOCUMENTS**

15 Plaintiffs identify the following documents or categories of documents that
16 they may use to support their material claims and defenses:

- 17 1. Medical records and billing for Jonathan Wayne Botten, Sr.;
- 18 2. Medical records and billing for Tanja Dudek-Botten;
- 19 3. Medical records and billing for J.B.;
- 20 4. San Bernardino County Sheriff's Department Lethal Force Encounter
21 Investigation;
- 22 5. California Highway Patrol Critical Incident Report;
- 23 6. Witness videos of the incident;
- 24 7. Photographs of the incident scene;
- 25 8. Photographs of Plaintiffs Jonathan Wayne Botten, Sr., Tanja Dudek-Botten,
26 and J.B.'s injuries.
- 27 9. **Counseling Attendance/Treatment Summary for Annabelle Botten;**
- 28

1 **10.Additional medical billing for Jonathan Wayne Botten, Sr.;**

2 **11.Additional photographs of J.B.'s injuries;**

3 **12.Photograph of metal fragments extracted from Tanja Dudek-Botten's**
4 **wounds;**

5 **13.Additional witness video of the incident.**

6 Plaintiffs' investigation of this matter is not yet complete and Plaintiffs have not
7 concluded their discovery in this matter. Plaintiffs reserve the right to identify
8 additional categories of documents as they become known to Plaintiffs or they
9 become relevant to the claims or defenses of any party, pursuant to Rule 26(e).
10 Plaintiffs further incorporate by reference all documents listed in Defendants' Initial
11 Disclosures.

12 **III. DAMAGES**

13 Plaintiffs seek general and special compensatory damages, including but not
14 limited to:

15 1. Compensatory damages:

16 a. Jonathan Wayne Botten, Sr. – In excess of \$15,000 in past and future
17 medical expenses. Based on the current information Plaintiff has,
18 Plaintiff currently has medical expenses totaling approximately \$1,500.
19 This is calculated based on the liens issued on behalf of Desert Valley
20 Medical Group. Plaintiff anticipates that he has additional outstanding
21 bills. Plaintiff estimates that he will incur approximately \$5,000-
22 \$10,000 in additional medical expenses. This is calculated based on his
23 current problems with his right arm and estimate of the physical
24 therapy needed to help rehabilitate his arm. Plaintiff Botten Sr. further
25 estimates that he incurred approximately \$700 in gas and lodging
26 expenses during the week he had to spend with his son, J.B., while J.B.
27 was in a hospital in Loma Linda.

28 b. Tanja Dudek-Botten – In excess of \$1.1 million in past and future

1 medical expenses. Based on the current information available to
2 Plaintiff, Plaintiff seeks approximately \$100,000 in damages for
3 medical expenses. This amount was calculated based on the medical
4 bills currently available to Plaintiff. Plaintiff seeks in excess of \$1
5 million in future medical expenses. Plaintiff currently cannot see well
6 out of her left eye and has a hard time hearing out of her left ear.
7 Additionally, there is still a big piece of metal in her rotary cuff.
8 Plaintiff anticipates that further treatment and/or accommodations for
9 her ongoing injuries will exceed \$1 million.

10 c. J.B. – In excess of \$500,000 in past and future medical expenses.
11 Plaintiff is currently seeking approximately \$500,000 in damages for
12 medical expenses. This amount was calculated by totaling up all the
13 medical bills Plaintiff has incurred as a result of the Incident.

14 2. Medical expenses:

15 a. Jonathan Wayne Botten, Sr. – Approximately \$15,000. Based on the
16 current information Plaintiff has, Plaintiff currently has medical
17 expenses totaling approximately \$1,500. This is calculated based on the
18 liens issued on behalf of Desert Valley Medical Group. Plaintiff
19 anticipates that he has additional outstanding bills that approximately
20 total \$3,500. Plaintiff estimates that he will incur approximately
21 \$5,000-\$10,000 in additional medical expenses. This is calculated
22 based on his current problems with his right arm and estimate of the
23 physical therapy needed to help rehabilitate his arm.

24 b. Tanja Dudek-Botten – In excess of \$1.1 million in past and future
25 medical expenses. Based on the current information available to
26 Plaintiff, Plaintiff seeks approximately \$100,000 in damages for
27 medical expenses. This amount was calculated based on the medical
28 bills currently available to Plaintiff. Plaintiff seeks in excess of \$1

1 million in future medical expenses. Plaintiff currently cannot see well
2 out of her left eye and has a hard time hearing out of her left ear.
3 Additionally, there is still a big piece of metal in her rotary cuff.
4 Plaintiff anticipates that further treatment and/or accommodations for
5 her ongoing injuries will exceed \$1 million.

6 c. J.B. – In excess of \$500,000 in past and future medical expenses.

7 Plaintiff is currently seeking approximately \$500,000 in damages for
8 medical expenses. This amount was calculated by totaling up all the
9 medical bills Plaintiff has incurred as a result of the Incident.

10 3. Lost wages – Plaintiff Jonathan Wayne Botten Sr. seeks approximately
11 \$4,300 in lost wages as a result of missing work for one month after the
12 incident. This is calculated based on his biweekly salary of approximately
13 \$2,100-\$2,200.

14 4. Emotional distress damages;

15 5. Attorneys' fees;

16 6. Punitive damages against individual defendants;

17 7. Costs;

18 8. Treble damages under the Bane Act.

19 Plaintiffs' investigation of this matter is not yet complete and Plaintiffs have not
20 concluded discovery in this matter. Plaintiffs reserve the right to supplement or
21 amend their prayer for relief and nature and scope of damages, pursuant to Rule
22 26(c). Plaintiffs further reserve the right to supplement and/or amend their Rule 26
23 Disclosures as additional information becomes available, through discovery or
24 otherwise.

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27 //

28 //

1 DATED: December 23, 2024

LAW OFFICES OF DALE K. GALIPO

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3 Bv



4 Dale K. Galipo
5 Hang D. Le
6 Attorneys for Plaintiffs
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Exhibit GG

LAW OFFICES OF DALE K. GALIPO

Dale K. Galipo, Esq. (Bar No. 144074)

dalekgalipo@yahoo.com

Hang D. Le, Esq. (Bar No. 293450)

hlee@galipolaw.com

21800 Burbank Boulevard, Suite 310

Woodland Hills, California, 91367

Telephone: (818) 347-3333

Facsimile: (818) 347-4118

Attorneys for Plaintiffs

JONATHAN WAYNE BOTTEN, SR.,

TANJA DUDEK-BOTTEN, ANNABELLE BOTTEN,

AND J.B.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JONATHAN WAYNE BOTTEN, SR.;
TANJA DUDEK-BOTTEN;
ANNABELLE BOTTEN; and J.B., a
minor, by and through his guardian
JONATHAN WAYNE BOTTEN, SR.,

Plaintiffs,

vs.

STATE OF CALIFORNIA; COUNTY
OF SAN BERNARDINO; ISAIAH
KEE; MICHAEL BLACKWOOD;
BERNARDO RUBALCAVA;
ROBERT VACCARI; JAKE ADAMS;
and DOES 1-10, inclusive,

Defendants.

Case No. 5:22-cv-00949-KK-SHK

[Consolidated for purposes of discovery
with *L.C., et al. v. State of California, et
al.*, Case No. 5:22-cv-00949-KK-SHK]

*Honorable Kenly Kiya Kato
Mag. Judge Shashi H. Kewalramani*

**PLAINTIFFS' RULE 26 INITIAL
EXPERT DISCLOSURES**

Pursuant to Federal Rule of Civil Procedure 26, Jonathan Wayne Botten, Sr., Tanja Dudek-Botten, Annabelle Botten, and J.B., a minor by and through his guardian *ad litem* Jonathan Wayne Botten, Sr., hereby make their initial expert disclosures pursuant to Rule 26(a)(2)(A) and (C) of the Federal Rules of Civil Procedure as follows:

RETAINED EXPERTS

Plaintiffs disclose the following retained expert witnesses who may be called upon to give expert testimony at trial pursuant to Rule 26(a)(2)(A) of the Federal Rules of Civil Procedure:

1. **Roger Clark** - Police Practices Expert

10207 Molino Road

Santee, CA 92071

(203) 351-2458

Mr. Clark's Rule 26 report, C.V., fee schedule, and list of prior sworn testimony are collectively attached hereto as "Exhibit 1."

2. **Matthew Kimmis** – Video Analysis and Graphics Expert

2458 Maplewood Drive SE

Grand Rapids, MI 49506

(415) 225-3962

Mr. Kimmis's Rule 26 Report, C.V., fee schedule, and list of prior sworn testimony are collectively attached hereto as "Exhibit 2."

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1 **NON-RETAINED EXPERTS**

2 Plaintiffs further identify expert witnesses who may present evidence
3 pursuant to Rules 702, 703, or 705 of the Federal Rules of Evidence, but who are
4 not retained by Plaintiffs to provide expert testimony. Plaintiffs hereby disclose the
5 following witnesses and submit the following summaries of the witness' expected
6 testimony pursuant to Rule 26(a)(2)(A) and (C):

- 7 1. Sergeant Robert Ripley – San Bernardino Sheriff's Department,
8 Specialized Investigations Division
9 c/o County Defense Counsel

10 Sergeant Ripley was the main detective who processed the incident scene and
11 undertook the crime scene investigation. Sergeant Ripley also conducted the
12 interview of Deputy Adams and two witness interviews. Sergeant Ripley worked
13 alongside Crime Scene Specialist Christopher Hermosillo in processing the incident
14 scene and documented all the evidence found in a report. Sergeant Ripley also took
15 measurements of various physical evidence. Sergeant Ripley is expected to testify
16 regarding all the evidence that he found at the scene in relation to the incident,
17 including but not limited to bullet casings, bullets, bullet strikes, weapons, blood
18 stains, and Mr. Puga's body position and final resting place.

- 19 2. Christopher Hermosillo – San Bernardino Sheriff's Department Crime
20 Scene Specialist
21 c/o County Defense Counsel

22 Mr. Hermosillo was the Crime Scene Specialist who assisted Sergeant Ripley with
23 the crime scene investigation. Mr. Hermosillo took photographs of the scene,
24 labeled evidence found at the scene, photographed each item of evidence prior to it
25 being measured and collected as evidence, measured evidence, and attempted to
26 determine bullet trajectories of found bullet entry/exit holes. Mr. Hermosillo further
27 took photographs of significant aspects of Mr. Puga's autopsy and collected samples
28 of Mr. Puga's head hair, fingernail clippings, blood and fingerprints and other

1 evidence. Mr. Mr. Hermosillo also processed collected evidence at the crime lab.
2 Mr. Hermosillo is expected to testify regarding the evidence observed and collected
3 at the scene, the evidence observed and collected at Mr. Puga's autopsy, and
4 evidence processed at the crime lab.

5 3. Joseph Edward Fergusson, M.D.- Physician at Loma Linda University
6 Health
7 Loma Linda University Health
8 11234 Anderson St.
9 Loma Linda, CA 92345
10 (909) 558-4000

11 Dr. Fergusson was a physician at Loma Linda University Health who treated Tanja
12 Dudek-Botten when she was brought in on February 17, 2021, after the shooting
13 incident. Dr. Fergusson provided medical care and treatment to Mrs. Botten. Dr.
14 Fergusson is expected to testify to his observations of Mrs. Botten's injuries and
15 diagnoses at the hospital, and any medical treatment or care provided to Mrs.
16 Botten.

17 4. Jon Boyd Roper, M.D. - Physician at Loma Linda University Health
18 Loma Linda University Health
19 11234 Anderson St.
20 Loma Linda, CA 92345
21 (909) 558-4000

22 Dr. Roper was a physician at Loma Linda University Health who treated Tanja
23 Dudek-Botten when she was brought in on February 17, 2021, after the shooting
24 incident. Dr. Roper also treated Mrs. Botten when she came in on March 13, 2021 in
25 relation to the injuries she sustained on February 17, 2021. Dr. Roper provided
26 medical care and treatment to Mrs. Botten. Dr. Roper is expected to testify to his
27 observations of Mrs. Botten's injuries and diagnoses at the hospital, and any medical
28 treatment or care provided to Mrs. Botten.

1 5. Heather Marie Tassone, D.O. - Physician at Loma Linda University Health
2 Loma Linda University Health
3 11234 Anderson St.
4 Loma Linda, CA 92345
5 (909) 558-4000

6 Dr. Tassone was a physician at Loma Linda University Health who treated Tanja
7 Dudek-Botten when she was brought in on February 17, 2021, after the shooting
8 incident. Dr. Tassone provided medical care and treatment to Mrs. Botten. Dr.
9 Tassone is expected to testify to her observations of Mrs. Botten's injuries and
10 diagnoses at the hospital, and any medical treatment or care provided to Mrs.
11 Botten.

12 6. Shannon Kiang, M.D. - Physician at Loma Linda University Health
13 Loma Linda University Health
14 11234 Anderson St.
15 Loma Linda, CA 92345
16 (909) 558-4000

17 Dr. Kiang was the resident physician at Loma Linda University Health who treated
18 Tanja Dudek-Botten when she was brought in on February 17, 2021, after the
19 shooting incident. Dr. Kiang provided medical care and treatment to Mrs. Botten.
20 Dr. Kiang is expected to testify to her observations of Mrs. Botten's injuries and
21 diagnoses at the hospital, and any medical treatment or care provided to Mrs.
22 Botten.

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1 7. Bailey Ann Wentworth, M.D. - Physician at Loma Linda University
2 Health
3 Loma Linda University Health
4 11234 Anderson St.
5 Loma Linda, CA 92345
6 (909) 558-4000

7 Dr. Wentworth was a physician at Loma Linda University Health who treated Tanja
8 Dudek-Botten when she was brought in on February 17, 2021, after the shooting
9 incident. Dr. Wentworth provided medical care and treatment to Mrs. Botten. Dr.
10 Wentworth is expected to testify to her observations of Mrs. Botten's injuries and
11 diagnoses at the hospital, and any medical treatment or care provided to Mrs.
12 Botten.

13 8. Nicole Depolo, M.D. - Physician at Loma Linda University Health
14 Loma Linda University Health
15 11234 Anderson St.
16 Loma Linda, CA 92345
17 (909) 558-4000

18 Dr. Depolo was a physician at Loma Linda University Health who treated Tanja
19 Dudek-Botten when she was brought in on February 17, 2021, after the shooting
20 incident. Dr. Depolo provided medical care and treatment to Mrs. Botten. Dr.
21 Depolo is expected to testify to her observations of Mrs. Botten's injuries and
22 diagnoses at the hospital, and any medical treatment or care provided to Mrs.
23 Botten.

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1 9. Daniel Paul Srikureja, M.D. - Physician at Loma Linda University Health
2 Loma Linda University Health
3 11234 Anderson St.
4 Loma Linda, CA 92345
5 (909) 558-4000

6 Dr. Srikureja was a physician at Loma Linda University Health who treated Tanja
7 Dudek-Botten and J.B. when they were brought in on February 17, 2021, after the
8 shooting incident. Dr. Srikureja provided medical care and treatment to Mrs. Botten
9 and J.B. Dr. Srikureja is expected to testify to his observations of Mrs. Botten's
10 injuries and diagnoses at the hospital, and any medical treatment or care provided to
11 Mrs. Botten. Dr. Srikureja is also expected to testify to his observations of J.B.'s
12 injuries and diagnoses at the hospital, and any medical treatment or care provided to
13 J.B.

14 10. Jose Jesurajan, M.D. - Physician at Loma Linda University Health
15 Loma Linda University Health
16 11234 Anderson St.
17 Loma Linda, CA 92345
18 (909) 558-4000

19 Dr. Jesurajan was a physician at Loma Linda University Health who treated Tanja
20 Dudek-Botten when she came in on March 13, 2021 in relation to the injuries she
21 sustained on February 17, 2021. Dr. Jesurajan performed a hand surgery consult on
22 Mrs. Botten. Dr. Jesurajan is expected to testify regarding the circumstances
23 surrounding the order of the consult, his observations of Mrs. Botten's injuries and
24 diagnoses at the hospital, and any recommendations he may have provided.

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1 11. Jennifer Elizabeth Raee-Nielson, M.D. - Physician at Loma Linda
2 University Health
3 Loma Linda University Health
4 11234 Anderson St.
5 Loma Linda, CA 92345
6 (909) 558-4000

7 Dr. Raee-Nielson was a physician at Loma Linda University Health who treated
8 Tanja Dudek-Botten when she came in on March 13, 2021 in relation to the injuries
9 she sustained on February 17, 2021. Dr. Raee-Nielson is expected to testify
10 regarding her observations of Mrs. Botten's injuries and diagnoses at the hospital,
11 and any treatment or medical care she provided Mrs. Botten.

12 12. Jon Miller, M.D. – Radiologist at Loma Linda University Health
13 Loma Linda University Health
14 11234 Anderson St.
15 Loma Linda, CA 92345
16 (909) 558-4000

17 Dr. Miller was a radiologist at Loma Linda University Health who treated Tanja
18 Dudek-Botten when she came in on March 13, 2021 in relation to the injuries she
19 sustained on February 17, 2021. Dr. Miller is expected to testify regarding his
20 observations of Mrs. Botten's injuries and diagnoses at the hospital, and any
21 treatment or medical care he provided Mrs. Botten.

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1 13. Andrew James Davis, M.D. - Physician at Loma Linda University Health
2 Loma Linda University Health
3 11234 Anderson St.
4 Loma Linda, CA 92345
5 (909) 558-4000

6 Dr. Davis was a physician at Loma Linda University Health who treated J.B. when
7 he was brought in on February 17, 2021, after the shooting incident. Dr. Davis
8 provided medical care and treatment to J.B. Dr. Davis is expected to testify to his
9 observations of J.B.'s injuries and diagnoses at the hospital, and any medical
10 treatment or care provided to J.B.

11 14. Amanda MacQuoid, M.D. - Physician at Loma Linda University Health
12 Loma Linda University Health
13 11234 Anderson St.
14 Loma Linda, CA 92345
15 (909) 558-4000

16 Dr. MacQuoid was a physician at Loma Linda University Health who treated J.B.
17 when he was brought in on February 17, 2021, after the shooting incident. Dr.
18 MacQuoid provided medical care and treatment to J.B. Dr. MacQuoid is expected to
19 testify to her observations of J.B.'s injuries and diagnoses at the hospital, and any
20 medical treatment or care provided to J.B.

21 15. Ali Kemal Ozcan, M.D. - Physician at Loma Linda University Health
22 Loma Linda University Health
23 11234 Anderson St.
24 Loma Linda, CA 92345
25 (909) 558-4000

26 Dr. Ozcan was a physician at Loma Linda University Health who treated J.B. when
27 he was brought in on February 17, 2021, after the shooting incident. Dr. Ozcan
28 provided medical care and treatment to J.B. Dr. Ozcan is expected to testify to his

1 observations of J.B.'s injuries and diagnoses at the hospital, and any medical
2 treatment or care provided to J.B.

3 16.Gregory James Jutzy, M.D. - Physician at Loma Linda University Health
4 Loma Linda University Health
5 11234 Anderson St.
6 Loma Linda, CA 92345
7 (909) 558-4000

8 Dr. Jutzy was a physician at Loma Linda University Health who treated J.B. when
9 he was brought in on February 17, 2021, after the shooting incident. Dr. Jutzy
10 provided medical care and treatment to J.B, including a pediatric cardiology consult.
11 Dr. Jutzy is expected to testify to his observations of J.B.'s injuries and diagnoses at
12 the hospital, and any medical treatment or care provided to J.B.

13 17.Katherine Sigrid Burruss, M.D. - Physician at Loma Linda University
14 Health
15 Loma Linda University Health
16 11234 Anderson St.
17 Loma Linda, CA 92345
18 (909) 558-4000

19 Dr. Burruss was a physician at Loma Linda University Health who treated J.B. when
20 he was brought in on February 17, 2021, after the shooting incident. Dr. Burruss
21 provided medical care and treatment to J.B, including acute care surgery. Dr.
22 Burruss is expected to testify to his observations of J.B.'s injuries and diagnoses at
23 the hospital, and any medical treatment or care provided to J.B.

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1 18. Carlo Adil Manalo, M.D. - Physician at Loma Linda University Health
2 Loma Linda University Health
3 11234 Anderson St.
4 Loma Linda, CA 92345
5 (909) 558-4000

6 Dr. Manalo was a physician at Loma Linda University Health who treated J.B. when
7 he was brought in on February 17, 2021, after the shooting incident. Dr. Manalo
8 provided medical care and treatment to J.B, including CT scans and X-rays. Dr.
9 Manalo is expected to testify to his observations of J.B.'s injuries and diagnoses at
10 the hospital, and any medical treatment or care provided to J.B.

11 19. Lauren Nicole Danlag, PT – Physical Therapist at Loma Linda University
12 Health
13 Loma Linda University Health
14 11234 Anderson St.
15 Loma Linda, CA 92345
16 (909) 558-4000

17 Ms. Danlag was a physical therapist at Loma Linda University Health who
18 evaluated J.B. during his stay at the hospital and provided physical therapy
19 recommendations. Ms. Danlag is expected to testify as to her evaluation and her
20 recommendations for physical therapy.

21 20. Robert J. Leonard, M.D. – Physician at Desert Valley Hospital
22 Desert Valley Hospital
23 16850 Bear Valley Road
24 Victorville, CA 92395
25 (760) 241-8000

26 Dr. Leonard treated Jonathan Wayne Botten, Sr. at Desert Valley Hospital on
27 February 17, 2021, after he was brought in after the shooting incident. Dr. Leonard
28 provided medical care and treatment to Mr. Botten. Dr. Leonard is expected to

1 testify to his observations of Mr. Botten's injuries and diagnoses at the hospital, and
2 any medical treatment or care provided to Mr. Botten.

3 21. Susan L. Campeas, M.D. – Physician at Desert Valley Hospital

4 Desert Valley Hospital

5 16850 Bear Valley Road

6 Victorville, CA 92395

7 (760) 241-8000

8 Dr. Campeas treated Jonathan Wayne Botten, Sr. at Desert Valley Hospital on
9 February 17, 2021, after he was brought in after the shooting incident. Dr. Campeas
10 provided medical care and treatment to Mr. Botten, including taking radiographs of
11 Mr. Botten's wrist, left hand, right elbow, and right forearm. Dr. Campeas is
12 expected to testify to his observations of Mr. Botten's injuries and diagnoses at the
13 hospital, and any medical treatment or care provided to Mr. Botten.

14 22. Janel Hillstrom, FNP

15 Mesa View Medical

16 1301 Bertha Howe Ave., Ste. 1

17 Mesquite, NV 89027

18 (702) 346-0800

19 Ms. Hillstrom is a nurse practitioner who treated J.B. after he visited Mesa View
20 Medical Urgent Care in 2022 for wounds exacerbated by his gunshot wounds and
21 injuries sustained from the February 17, 2021 incident. Ms. Hillstrom is expected to
22 testify to her observations of J.B.'s injuries, condition, and diagnoses at the hospital,
23 and any medical treatment or care provided to J.B.

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1 23.Sarah Schmotzer – Therapist

2 Renewing Hope Family Counseling Center, Inc.

3 24910 Las Brisas Rd, Ste 117

4 Murrieta, CA 92562

5 (951) 465-3664

6 Ms. Schmotzer is a therapist at Renewing Hope Family Counseling Center, Inc. who
7 treated Annabelle Botten from June 2023 to November 2024 for mental health and
8 emotional distress related to the February 17, 2021, incident. Ms. Schmotzer
9 diagnosed Ms. Botten with depression and PTSD resulting from witnessing the 2021
10 shooting and her family members being seriously injured from the shooting. Ms.
11 Schmotzer is expected to testify regarding her observations and diagnoses of Ms.
12 Botten and any treatment she provided to Ms. Botten.

13 24.Juan Cobian – San Bernardino County Fire Department Firefighter

14 Paramedic

15 Fire Station #302

16 17288 Olive Street

17 Hesperia, CA

18 Mr. Cobian is a Paramedic for the County of San Bernardino Fire Department, Fire
19 Station #302. Mr. Cobian was one of the EMT-Paramedics who responded to the
20 scene of the incident and treated Tanja Dudek-Botten. Mr. Cobian is expected to
21 testify to Mrs. Botten's injuries at the scene, any medical treatment he provided to
22 Mrs. Botten, and any information he received regarding the incident.

23 25.Noah Haney – San Bernardino County Fire Department Firefighter EMT

24 Fire Station #302

25 17288 Olive Street

26 Hesperia, CA

27 Mr. Haney is an EMT for the County of San Bernardino Fire Department, Fire
28 Station #302. Mr. Haney was one of the EMT-Paramedics who responded to the

1 scene of the incident and treated Tanja Dudek-Botten. Mr. Haney is expected to
2 testify to Mrs. Botten's injuries at the scene, any medical treatment he provided to
3 Mrs. Botten, and any information he received regarding the incident.

4 26.Carlos Topete – San Bernardino County Fire Department Firefighter
5 Paramedic
6 Fire Station #22
7 12398 Tamarisk Road
8 Victorville, CA

9 Mr. Topete is a Paramedic for the County of San Bernardino Fire Department, Fire
10 Station #22. Mr. Topete was one of the EMT-Paramedics who responded to the
11 scene of the incident and treated Tanja Dudek-Botten. Mr. Topete is expected to
12 testify to Mrs. Botten's injuries at the scene, any medical treatment he provided to
13 Mrs. Botten, and any information he received regarding the incident.

14 27.Jeremy Pendergraft – San Bernardino County Fire Department Firefighter
15 Paramedic
16 Fire Station #22
17 12398 Tamarisk Road
18 Victorville, CA

19 Mr. Topete is a Paramedic for the County of San Bernardino Fire Department, Fire
20 Station #22. Mr. Topete was one of the EMT-Paramedics who responded to the
21 scene of the incident. Mr. Topete is expected to testify to Hector Puga's injuries at
22 the scene, any medical treatment he provided to Mr. Puga, and any information he
23 received regarding the incident.

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1 28.Michael Doucette – San Bernardino County Fire Department Firefighter
2 Paramedic
3 Fire Station #302
4 17288 Olive Street
5 Hesperia, CA

6 Mr. Doucette is a Paramedic for the County of San Bernardino Fire Department,
7 Fire Station #302. Mr. Doucette was one of the EMT-Paramedics who responded to
8 the scene of the incident and treated J.B. Mr. Doucette is expected to testify to J.B.'s
9 injuries at the scene, any medical treatment he provided to J.B., and any information
10 he received regarding the incident.

11 29.Michael Stachowicz - San Bernardino County Fire Department Firefighter
12 Fire Station #302
13 17288 Olive Street
14 Hesperia, CA

15 Mr. Stachowicz is a Paramedic for the County of San Bernardino Fire Department,
16 Fire Station #302. Mr. Stachowicz was one of the EMT-Paramedics who responded
17 to the scene of the incident. Mr. Stachowicz is expected to testify to J.B.'s injuries at
18 the scene, any medical treatment he observed being provided to J.B., and any
19 information he received regarding the incident.

20 30.Andrew Walk – San Bernardino County Fire Department EMT (John Jr.)
21 Fire Station #302
22 17288 Olive Street
23 Hesperia, CA

24 Mr. Walk is an EMT for the County of San Bernardino Fire Department, Fire
25 Station #302. Mr. Walk was one of the EMT-Paramedics who responded to the
26 scene of the incident and treated J.B. Mr. Walk is expected to testify to J.B.'s
27 injuries at the scene, any medical treatment he provided to J.B., and any information
28 he received regarding the incident.

1 31.Marc Chappell - San Bernardino County Fire Department EMT

2 Fire Station #302

3 17288 Olive Street

4 Hesperia, CA

5 Mr. Chappell is an EMT for the County of San Bernardino Fire Department, Fire
6 Station #302. Mr. Chappell was one of the EMT-Paramedics who responded to the
7 scene of the incident and treated Jonathan Wayne Botten, Sr. Mr. Chappell is
8 expected to testify to Mr. Botten's injuries at the scene, any medical treatment he
9 provided to Mr. Botten, and any information he received regarding the incident.

10 32.Daniel Rios - San Bernardino County Fire Department Firefighter

11 Paramedic

12 Fire Station #302

13 17288 Olive Street

14 Hesperia, CA

15 Mr. Rios is a Paramedic for the County of San Bernardino Fire Department, Fire
16 Station #302. Mr. Rios was one of the EMT-Paramedics who responded to the scene
17 of the incident and treated Jonathan Wayne Botten, Sr. Mr. Rios is expected to
18 testify to Mr. Botten's injuries at the scene, any medical treatment he provided to
19 Mr. Botten, and any information he received regarding the incident.

20
21 DATED: January 30, 2025

LAW OFFICES OF DALE K. GALIPO

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23
24 Bv


Dale K. Galipo
Hang D. Le
Attorneys for Plaintiffs

Exhibit HH

**Gonzalez, Betzabeth
L.C., a minor v. State of California**

<p>UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA</p> <p>L.C., a minor by and through) her guardian ad litem Maria) Cadena; et al.,)) Plaintiff,)) vs.) Case No.) 5:22-cv-00949-KK-(SHKx) STATE OF CALIFORNIA; COUNTY) OF SAN BERNARDINO; et al.,)) Defendants.) _____)</p> <p>VIDEOCONFERENCE DEPOSITION OF BETZABETH GONZALEZ Taken on Monday, December 30, 2024, at 10:20 a.m.</p> <p>REPORTED BY: NICOLE JOHNSON CSR No. 13030</p>	<p>1 UNITED STATES DISTRICT COURT 2 CENTRAL DISTRICT OF CALIFORNIA 3 4 5 L.C., a minor by and through) 6 her guardian ad litem Maria) 7 Cadena; et al.,) 8) 9 Plaintiff,) 10) 11 vs.) Case No. 12) 5:22-cv-00949-KK-(SHKx) 13 STATE OF CALIFORNIA; COUNTY) 14 OF SAN BERNARDINO; et al.,) 15) 16 Defendants.) 17 _____) 18 19 20 21 22 23 24 25</p> <p>Deposition of BETZABETH GONZALEZ, taken on behalf of the defendants, via Zoom videoconferencing, at 10:20 a.m., Monday, December 30, 2024, before Nicole Johnson, CSR #13030, as a Certified Shorthand Reporter within and for the County of Orange, State of California.</p>
<p>1 APPEARANCES: 2 3 For the Plaintiffs: 4 LAW OFFICES OF DALE K. GALIPO 5 BY: Marcel Sincich 6 21800 Burbank Boulevard 7 Suite 310 8 Woodland Hills, California 91367 9 (818) 347-3333 10 msincich@galipolaw.com 11 12 For the Defendants 13 County of San Bernardino, Vaccari, Adams: 14 15 LYNBERG & WATKINS 16 BY: Amy Margolies 17 1100 Town & Country Road 18 Suite 1450 19 Orange, California 92868 20 (714) 937-1010 21 amargolies@lynberg.com 22 23 For the Defendants 24 State of California, Kee, Blackwood, Rubalcava: 25 26 OFFICE OF THE ATTORNEY GENERAL 27 BY: Diana Esquivel 28 1300 I Street 29 Suite 125 30 Sacramento, California 95814 31 (916) 210-7320 32 diana.esquivel@doj.ca.gov 33 34 The Videographer: Ed Gallo 35</p>	<p>1 INDEX 2 3 Examination Page 4 Attorney Margolies 6, 110 5 Attorney Esquivel 63, 121, 132 6 Attorney Sincich 87, 130 7 8 EXHIBITS 9 Exhibit Description Page 10 52 Notice of Deposition, 7 pgs 7 11 15 Bates-stamped COSB105, 1 pg (previously marked) 29 12 16 Bates-stamped COSB3236, 1 pg (previously marked) 31 13 53 Video 48 14 54 Color Photograph, 1 pg 69 15 16 17 CONFIDENTIAL TRANSCRIPT 18 (Separately Bound) 19 Page 112 20 21 22 23 24 25</p>

**Gonzalez, Betzabeth
L.C., a minor v. State of California**

<p>1 Monday, December 30, 2024 2 ooOoo 3 4 THE VIDEOGRAPHER: We are on the record. My 5 name is Ed Gallo. I'm contract by Dean Jones. Today is 6 December 30th of 2024. The time is 10:20 a.m. Pacific 7 Time. This video deposition is taken via Zoom. 8 The name of the case is L.C. versus State of 9 California filed in United States District Court, Central 10 District of California. Case Number CV-00949 [sic]. This 11 is Volume 1 in the videotaped deposition of Betzabeth 12 Gonzalez. 13 The deposition is taken by attorney Amy 14 Margolies. Would the attorneys introduce themselves and 15 state who you represent. 16 ATTORNEY MARGOLIES: Amy Margolies from Lynberg 17 and Watkins on behalf of the County of San Bernardino and 18 Deputy Adams and Vaccari. 19 ATTORNEY SINCICH: Good morning. My name is 20 Marcel Sincich. I'm from the law offices of Dale K. 21 Galipo, and I represent the plaintiffs in this matter. 22 ATTORNEY ESQUIVEL: Good morning. Diana 23 Esquivel on behalf of defendant State of California by and 24 through the California Highway Patrol, Officers Blackwood, 25 Kee, and Rubalcava.</p> <p>5</p>	<p>1 THE VIDEOGRAPHER: The court reporter today is 2 Nicole Johnson. Would reporter please swear in the 3 witness. 4 5 ooOoo 6 BETZABETH GONZALEZ, 7 was called as a witness, and having been 8 first duly sworn by the Certified 9 Shorthand Reporter in accordance with 10 CCP Section 2094, testified as follows: 11 12 THE WITNESS: Yes. 13 THE REPORTER: Thank you. 14 15 EXAMINATION 16 BY ATTORNEY MARGOLIES: 17 Q. Good morning, Ms. Gonzalez. Thank you for being 18 here today. 19 A. Good morning. 20 Q. I'm going to show you a notice of deposition. 21 If you could just confirm for me that this is the same 22 notice that you received to be here today. 23 I do not know what exhibit number we left off 24 on. According to my notes I believe we are on 52. If 25 either counsel knows?</p> <p>6</p>
<p>1 ATTORNEY ESQUIVEL: That's my understanding as 2 well, that the next number in line should be 52. 3 ATTORNEY MARGOLIES: Thank you, Ms. Esquivel. 4 We're going to mark this as Exhibit 52 then. It 5 will be your notice of deposition. 6 (Exhibit 52 was marked for identification 7 by the shorthand reporter.) 8 BY ATTORNEY MARGOLIES: 9 Q. Do you see a deposition on your screen, 10 Ms. Gonzalez? I think you're muted. 11 A. I do. 12 Q. Thank you. I'm going to scroll down. And does 13 this appear to you to be the same notice of deposition 14 that you received to be here today? 15 A. It is. 16 Q. I'm going to stop sharing my screen now. 17 Ms. Gonzalez, have you ever had your deposition 18 taken before? 19 A. No. 20 Q. Have you ever testified in court before? 21 A. No. 22 Q. You're doing a great job of this. There's just 23 a few ground rules I want to go over with you. One is 24 that you answer audibly with yes or no, instead of shaking 25 and nodding of the head because we have a court reporter</p> <p>7</p>	<p>1 here. Does that make sense? 2 A. Yes. 3 Q. And also because we have a court reporter, it 4 really helps if just one of us is speaking at a time. So 5 if you could allow the attorneys to finish their question 6 before giving your answer. 7 A. Okay. 8 Q. And then we will try our best to make sure that 9 we allow you to finish your answer before we ask our next 10 question. Okay? 11 A. Okay. 12 Q. Okay. The only other rule is that you're honest 13 and truthful today. You just took an oath. And you 14 understand that even though we are on Zoom, the oath that 15 you gave carries the same weight as if you were in a court 16 of law and that you're obligated to tell the truth today. 17 A. I understand. 18 Q. Is there any reason that you would not be able 19 to tell us the truth today? 20 A. No. 21 Q. One final thing, we know that this was many 22 years ago and so we don't want any guesses, but we are 23 entitled to your best recollection and best estimates. 24 Does that make sense? 25 A. Yes.</p> <p>8</p>

**Gonzalez, Betzabeth
L.C., a minor v. State of California**

<p>1 don't remember how soon I saw the GoFundMe after 2 everything happened. But, yeah. 3 Q. Okay. And did you make any contributions to 4 that GoFundMe page? 5 A. I don't believe so. I don't remember, to be 6 honest. 7 Q. And you mentioned that the neighbor in front of 8 you, if you're facing northbound on Peach Street, is 9 Clarita Snell; correct? 10 A. Yes. 11 Q. And I understood you to say that you did ask her 12 about the incident; is that correct? 13 A. Yes. 14 Q. Okay. And is she the one that slept through the 15 whole incident? 16 A. Yes. 17 Q. Okay. Other than Ms. Snell, did you talk to any 18 of your other neighbors around you? 19 A. No. 20 ATTORNEY ESQUIVEL: So I'm going to show you, 21 and we'll mark this as -- I believe the next in line is 22 54. And I'm going to share my screen with you so you can 23 take a look at this. 24 (Exhibit 54 was marked for identification 25 by the shorthand reporter.)</p> <p>69</p>	<p>1 BY ATTORNEY ESQUIVEL: 2 Q. So there should be a photograph up on your 3 screen. Do you see that? 4 A. Yes. 5 Q. And for identification purposes, this is 6 COSB001570. That's the Bates-stamp number. 7 On this photograph, it's my understanding that 8 this is a photograph of Ms. -- of the house on the corner 9 of -- I'm going to say the southwest corner of the 10 intersection of Peach and Catalpa. Is this immediately 11 right at the -- I would say, center right side of the 12 photograph, is that Ms. Snell's house? 13 A. Yes. 14 Q. And behind that, I see two buildings and then a 15 white house. Are the two small buildings -- I don't know 16 if you can see my cursor? 17 A. I can. 18 Q. It's crosshairs. Can you see that? 19 A. Yes. 20 Q. There's a small building with the brown pitched 21 roof. And then there's another same color, kind of like a 22 tannish brown building, but this has what looks like those 23 terra cotta type tiles. Are these two buildings part of 24 Ms. Snell's residence? Or are those your buildings of 25 your residence?</p> <p>70</p>
<p>1 A. Only the first -- the first shed with the brown 2 roof, it's in her property. That's hers. And then the 3 shed with the lighter gray roof, that's in my property. 4 And then the house that you're referring to, that's behind 5 my house. So my -- huh? 6 Q. I'm sorry. So the building that has the terra 7 cotta tile type roofing, the one that I have the 8 crosshairs on, is that your residence? 9 A. No. That's the house behind me. 10 Q. Oh, okay. So it's just a bad angle. To me it 11 looks like it's in a row. But you're saying it's actually 12 behind your house? 13 A. Correct. 14 Q. Okay. And then the white one that looks like 15 it's behind it -- but, again, it just might be the angle 16 with the two windows where the crosshairs are on it now 17 and with the brown roof, that's your house? 18 A. Yes. 19 Q. Okay. From this angle, can you see the bathroom 20 window that you were filming through? 21 A. You can see it slightly right above the -- the 22 police car's siren, the white police car siren. Right 23 there where you're pointing at. 24 Q. Okay. 25 A. You can see it slightly there.</p> <p>71</p>	<p>1 Q. Okay. So there's a vent near the pitch of the 2 roof. So just below that, there's a little dark spot. 3 You're saying that's the bathroom window? 4 A. Correct. 5 Q. Okay. I am going to -- I think I have to stop 6 sharing -- show you another angle. So before I show you 7 the next photograph, you testified earlier that about 8 somewhere between five to ten minutes after the shooting 9 stopped, you exited your house and looked northbound on -- 10 looked down northbound on Peach Street; correct? 11 A. Yes. 12 Q. Did you walk -- I mean, I don't know if there 13 are well-defined sidewalks in this area. 14 A. No. 15 Q. How far down did you walk down your -- I don't 16 know if you want to call it a walkway or -- to get a 17 better view of what was happening down the street on Peach 18 Street? 19 A. Just to the first fence that's inside my house. 20 So, like, maybe, like, I don't know, like, ten steps out 21 of my house. 22 Q. Okay. So I am going to share my video -- my 23 screen with you again. And I'm not going to have this 24 marked because it's a very lengthy video. But I'm going 25 to identify it. So do you see a picture up on your</p> <p>72</p>

REPORTER'S CERTIFICATION

I, Nicole Johnson, do hereby certify:

That I am a licensed Certified Shorthand Reporter, duly qualified and certified as such by the State of California.

That prior to being examined, the witness named in the foregoing deposition was duly sworn to testify under oath.

That the preceding deposition was recorded stenographically by me at the time and place herein mentioned; and that the preceding pages constitute a complete and accurate record of the testimony given by the aforementioned witness.

That I am a neutral party, in no way interested in the outcome of said action, and that I am not related to or otherwise connected with any of the parties involved with this matter, or their respective counsel.

Dated: January 10, 2025



Nicole Johnson, CSR No. 13030

EXHIBIT

54

exhibitsticker.com

